

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

STATE OF TEXAS,

Plaintiff,

v.

**MERRICK GARLAND**, in his official capacity as  
Attorney General, *et al.*,

Defendants.

Case No. 5:23-cv-00034-H

**DEFENDANTS' APPENDIX IN SUPPORT OF THEIR COMBINED  
OPPOSITION TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION  
AND MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS**

**Table of Appendix**

Bates Stamps	Description
App1	Email from Leif Olson to Courtney Enlow (Mar. 2, 2023)
App2–4	Declaration of Sean C. Dandridge (May 3, 2023)
App5–65	Declaration of Robert Farmer (May 3, 2023) and attached exhibits
App66–94	Declaration of Peter Mina (May 3, 2023) and attached exhibits
App95–106	Declaration of Kelly Kinneen (May 4, 2023)

Dated: May 4, 2023

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

JOHN R. GRIFFITHS  
Director, Federal Programs Branch

LESLEY FARBY  
Assistant Branch Director

/s/ Courtney D. Enlow  
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Senior Trial Counsel  
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*Counsel for Defendants*

**From:** [Leif Olson](#)  
**To:** [Enlow, Courtney D. \(CIV\)](#); [Aaron Reitz](#); [cweldon@texaspolicy.com](#); [Ethan Szumanski](#); [Aaron Barnes](#); [mmiller@texaspolicy.com](#); [ncurtisi@texaspolicy.com](#); [rhenneke@texaspolicy.com](#); [Ryan Walters](#)  
**Subject:** [EXTERNAL] RE: Texas v. Garland, 23-cv-34 (N.D. Tex.)  
**Date:** Thursday, March 02, 2023 11:44:40 AM

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Courtney, we don't agree to a stay, but we're happy to discuss a schedule for briefing the PI motion we're planning to file.

I can confirm that the reference to "individual capacities" is a drafting error.

---

**From:** Enlow, Courtney D. (CIV) <Courtney.D.Enlow@usdoj.gov>  
**Sent:** Thursday, March 2, 2023 9:30 AM  
**To:** Aaron Reitz <Aaron.Reitz@oag.texas.gov>; cweldon@texaspolicy.com; Ethan Szumanski <Ethan.Szumanski@oag.texas.gov>; Aaron Barnes <Aaron.Barnes@oag.texas.gov>; Leif Olson <Leif.Olson@oag.texas.gov>; mmiller@texaspolicy.com; ncurtisi@texaspolicy.com; rhenneke@texaspolicy.com; Ryan Walters <Ryan.Walters@oag.texas.gov>  
**Subject:** Texas v. Garland, 23-cv-34 (N.D. Tex.)

Good morning,

In *Texas v. Garland*, 23-cv-34 (N.D. Tex.), we anticipate filing today a motion to temporarily stay proceedings while the parties brief and the court considers Defendants' pending Motion to Transfer Venue. We further propose that if the Court denies Defendants' pending Motion to Transfer Venue, the Parties confer and file a joint status report within 14 days of the Court's ruling proposing a deadline for Defendants' response to Plaintiff's Amended Complaint. Please let me know whether Texas will consent to the relief sought by 5:00 PM Eastern today.

In addition, paragraphs 7 and 13 of the Amended Complaint state that Secretary Mayorkas and Administrator Criswell are "sued in [their] individual capacit[ies]," though there do not seem to be claims brought against them, nor have they been served in their individual capacities. Can you please let me know whether this is an inadvertent drafting error, or whether Texas is suing Secretary Mayorkas and Administrator Criswell in their individual capacities?

Best regards,  
Courtney

Courtney Enlow  
Senior Counsel  
U.S. Department of Justice, Civil Division, Federal Programs Branch  
(202) 616-8467  
[courtney.d.enlow@usdoj.gov](mailto:courtney.d.enlow@usdoj.gov)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**STATE OF TEXAS,**

Plaintiff,

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**MERRICK GARLAND**, in his official capacity as  
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Defendants.

Case No. 5:23-cv-00034-H

**DECLARATION OF SEAN C. DANDRIDGE**

I, Sean C. Dandridge, declare the following under 28 U.S.C. § 1746, and state under the penalty of perjury the following is true and correct to the best of my knowledge and belief:

1. I am currently employed by the U.S. Department of Homeland Security (“DHS”), U.S. Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations (“ERO”), as the Acting Deputy Assistant Director of the Alternatives to Detention Unit in the Non-Detained Management Division. I make this declaration in my official capacity, based on my personal knowledge and upon information that has been provided to me in the course of my official duties.

2. I began my law enforcement career in 2009 as an Immigration Enforcement Agent with ICE in San Diego. Since then, I have held various positions within ICE, including Detention and Deportation Officer, Supervisory Detention and Deportation Officer, and Unit Chief.

3. ICE’s Alternatives to Detention (“ATD”) programs allow eligible non-detained noncitizens to remain in their communities pending the outcome of their immigration cases. These programs are flight-mitigation programs that use case management tools in combination with

monitoring (sometimes electronic) to ensure enrollees comply with their release conditions, such as attending immigration court or complying with removal orders.

4. ICE ERO currently oversees and manages two ATD programs: the Young Adult Case Management Program (“YACMP”) and the primary ATD program, the Intensive Supervision Appearance Program (“ISAP”). ICE ERO has sole and complete oversight over both YACMP and ISAP.

5. DHS’s Office for Civil Rights and Civil Liberties (“CRCL”) oversees and operates the Case Management Pilot Program (“CMPP”). Unlike the YACMP and ISAP, ICE ERO does not have any oversight over CMPP. ICE ERO’s involvement in CMPP is limited to providing CRCL with a list of potential participants from which CRCL draws to enroll individuals in the program. All individuals enrolled in ISAP are eligible to be included unless they affirmatively opt out of CMPP. Individuals in ICE ERO custody are not eligible for CMPP. To date, no individuals who have previously been in ICE ERO custody or enrolled in YACMP have participated in CMPP.

6. Although ICE ERO does not oversee CMPP, CMPP participants’ immigration cases remain under ICE ERO supervision. CMPP participants are still required to adhere to ICE check-in requirements like all other individuals on the non-detained docket.

7. No individuals are released from ICE ERO custody pursuant to CMPP. CMPP plays no role in ICE ERO’s decision to release an individual from its custody. Instead, ICE ERO detains, releases, and supervises individuals pursuant to its authority found in the Immigration and Nationality Act (“INA”) and applicable regulations. *See, e.g.*, INA §§ 212(d)(5), 235(b), 236(a), 236(c), 241(a), 8 C.F.R. §§ 212.5(b)(5), 236.1(c), 241(a)(3)(D).

Executed on this 3rd day of May 2023



Sean C. Dandridge  
Acting Deputy Assistant Director  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement  
500 12th St. SW, Washington, D.C. 20536  
Department of Homeland Security

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Case No. 5:23-cv-00034-H

**DECLARATION OF ROBERT FARMER**

I, Robert Farmer, state as follows:

1. I am the Deputy Assistant Administrator for the Office of Enterprise Grant Services within the Grant Programs Directorate (GPD) of the Federal Emergency Management Agency (FEMA), a component agency of the Department of Homeland Security (DHS). I have served in this capacity since July 3, 2022. I make this declaration in my official capacity, based on my personal knowledge and upon information that has been provided to me in the course of my official duties.

2. Previously, I served as the acting head of GPD's Office of Enterprise Grant Services from January 13, 2022, until July 2, 2022. During that time, my title was Senior Policy Advisor. Prior to that, I served as the Acting Deputy Administrator of GPD from August 3, 2020, until January 12, 2022.

3. I am the head official in the Office of Enterprise Grant Services within GPD, which is responsible for providing FEMA grant programs with consistent policies and guidance; technical innovation through the consolidation and modernization of FEMA's disparate grant systems into the new FEMA Grants Outcomes (FEMA GO) grant management platform; and risk reduction through monitoring and compliance with applicable grant administration laws, regulations, policies, and internal controls.

4. My staff and I are responsible for coordinating with DHS and other FEMA program offices regarding grant management documents and requirements, including annual updates of federal assistance listings; the development and issuance of Notices of Funding Opportunity (NOFOs); updates to the terms and conditions that are ultimately incorporated into the grant awards that FEMA issues; coordination of monitoring and compliance with grant administration laws, regulations, policies, and internal controls; as well as development or management of grant management systems, among other matters.

5. I am familiar with the development of the Alternatives to Detention Case Management Pilot Program (CMPP) and the program's current status. The Office of Enterprise Grant Services is the responsible entity within FEMA for coordinating with the DHS Office for Civil Rights and Civil Liberties (CRCL) to review and ensure the proper routing of NOFOs, including CMPP NOFOs. A NOFO serves as the official announcement of the availability of funding through a federal assistance program and contains information regarding eligibility criteria, funding priorities, required application materials and deadlines, the evaluation and scoring process, as well as certain terms and conditions a recipient agrees to when it accepts an award.

6. As part of the 2021 Consolidated Appropriations Act, Congress appropriated \$5,000,000 from the Department of Homeland Security's Office of the Secretary and Executive Management Federal Assistance funding to be transferred to FEMA for CMPP. The purpose of CMPP is to fund case management services for individuals enrolled in the U.S. Immigration and Customs Enforcement's (ICE) Alternatives to Detention program.

7. The 2021 Consolidated Appropriations Act specified that the funding must be administered by a National Board that is chaired by the Officer for CRCL at DHS. The 2022 and 2023 Consolidated Appropriations Acts also appropriated funding for this program and retained the

same program structure. Therefore, FEMA's primary role in CMPP is to administer the funds to the National Board.<sup>1</sup>

8. After the 2021 Consolidated Appropriations Act was issued, FEMA worked with CRCL to develop the FY 2021 CMPP NOFO. This NOFO was issued by FEMA on June 28, 2022. *See* Exh. A. Consistent with the requirements of the 2021 Consolidated Appropriations Act that the National Board administer and award CMPP funds to subrecipients, the NOFO listed the Case Management Pilot Program National Board as the only eligible recipient.

9. The National Board submitted its application on August 17, 2022. FEMA awarded the National Board the full \$5,000,000 on August 31, 2022 (*see* Exh. B), and the National Board accepted the award on September 7, 2022.

10. FEMA was not involved in the National Board's selection of subrecipients for FY 2021 CMPP funding. The National Board ran its own application process and voted on which nonprofit organizations and/or local governments would receive funding and in what amount, in accordance with the 2021 Appropriations Act.

11. Congress appropriated an additional \$15,000,000 for CMPP in the 2022 Consolidated Appropriations Act. In the 2022 Appropriations Act, Congress specified that the funds must be awarded to the National Board by September 30, 2023. FEMA released a NOFO for the FY 2022 funding on April 26, 2023, which provided the National Board an application submission deadline of May 26, 2023. FEMA will not award funds for the FY 2022 CMPP until the National Board has applied and FEMA has reviewed and approved its application. FEMA will not be involved in the National Board's selection of subrecipients for FY 2022 CMPP funding.

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<sup>1</sup> FEMA also ensures the proper routing of CMPP NOFOs, provides coordination of financial and programmatic monitoring for CMPP grants, assesses the effectiveness of internal controls for CMPP grants, and maintains the grant technology system CMPP uses.

12. Congress appropriated an additional \$20,000,000 for CMPP in the 2023 Consolidated Appropriations Act. In the 2023 Appropriations Act, Congress specified that the funds must be awarded to the National Board by September 30, 2024. FEMA has not yet issued a NOFO to award the FY 2023 funding. FEMA will not award funds for the FY 2023 CMPP until after the NOFO has been issued, the National Board has applied, and FEMA has reviewed and approved its application. FEMA will not be involved in the National Board's selection of subrecipients for FY 2023 CMPP funding.

13. To date, the \$5,000,000 from the 2021 Appropriations Act are the only CMPP funds FEMA has awarded to the National Board. Consequently, no nonprofit organization or local government subrecipient has received any funds from the 2022 or 2023 Appropriations Acts under CMPP.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 3, 2023 in Washington, D.C.



Robert A. Farmer  
Deputy Assistant Administrator, Office of Enterprise Grant Services  
Grant Programs Directorate  
Federal Emergency Management Agency

# Exhibit A

**The Department of Homeland Security (DHS)**  
**Notice of Funding Opportunity (NOFO)**  
**Fiscal Year 2021 Case Management Pilot Program (CMPP)**

Effective April 4, 2022, the Federal Government transitioned from using the Data Universal Numbering System or DUNS number, to a new, non-proprietary identifier known as a Unique Entity Identifier or UEI. For entities that have an active registration in SAM.gov prior to the April 4 date, the UEI has automatically been assigned and no action is necessary. For all entities filing a new registration in SAM.gov on or after April 4, 2022, the UEI will be assigned to that Entity as part of the SAM.gov registration process.

Unique Entity Identifier registration information is available on GSA.gov at: [Unique Entity Identifier Update | GSA](#).

Grants.gov registration information can be found at:

<https://www.grants.gov/web/grants/register.html>. Detailed information regarding UEI and SAM is also provided in Section D of this NOFO.

## Table of Contents

A. Program Description .....	3
1. Issued By.....	3
2. Assistance Listings Number .....	3
3. Assistance Listings Title .....	3
4. Funding Opportunity Title .....	3
5. Funding Opportunity Number.....	3
6. Authorizing Authority for Program.....	3
7. Appropriation Authority for Program .....	3
8. Announcement Type .....	3
9. Program Category .....	3
10. Program Overview, Objectives, and Priorities .....	3
11. Performance Measures .....	6
B. Federal Award Information .....	7
1. Available Funding for the NOFO: \$5,000,000.00.....	7
2. Projected Number of Awards: 1.....	7
3. Maximum Award Amount: Not applicable.....	7
4. Period of Performance: 24 Months .....	7
5. Projected Period of Performance Start Date(s): September 1, 2022 .....	7
6. Projected Period of Performance End Date(s): August 31, 2024 .....	7
7. Funding Instrument Type: Grant .....	8
C. Eligibility Information .....	8
1. Eligible Applicants .....	8
2. Applicant Eligibility Criteria.....	8
3. Other Eligibility Criteria .....	8
4. Maintenance of Effort (MOE).....	8

5. Cost Share or Match .....	8
<b>D. Application and Submission Information .....</b>	<b>8</b>
1. Key Dates and Times .....	8
2. Agreeing to Terms and Conditions of the Award .....	9
3. Address to Request Application Package.....	9
4. Steps Required to Obtain a Unique Entity Identifier, Register in the System for Award Management (SAM), and Submit an Application.....	10
5. Electronic Delivery .....	11
6. How to Register to Apply through Grants.gov/.....	11
7. How to Submit an Initial Application to FEMA via Grants.gov.....	14
8. Submitting the Final Application in ND Grants.....	15
9. Timely Receipt Requirements and Proof of Timely Submission.....	16
10. Content and Form of Application Submission.....	16
11. Other Submission Requirements .....	17
12. Intergovernmental Review .....	17
13. Funding Restrictions and Allowable Costs .....	17
<b>E. Application Review Information .....</b>	<b>20</b>
1. Application Evaluation Criteria .....	20
2. Review and Selection Process.....	20
<b>F. Federal Award Administration Information .....</b>	<b>21</b>
1. Notice of Award.....	21
2. Pass-Through Requirements.....	21
3. Administrative and National Policy Requirements .....	21
4. Reporting.....	23
5. Monitoring and Oversight.....	27
<b>G. DHS Awarding Agency Contact Information .....</b>	<b>29</b>
1. Contact and Resource Information.....	29
2. Systems Information .....	30
<b>H. Additional Information .....</b>	<b>30</b>
1. Period of Performance Extensions [Include if POP Extensions are allowed].....	30
3. Disability Integration.....	31
4. Conflicts of Interest in the Administration of Federal Awards or Subawards .....	32
5. Procurement Integrity.....	32
6. Record Retention.....	37
7. Actions to Address Noncompliance .....	38
8. Audits .....	39
9. Payment Information.....	40
10. Whole Community Preparedness .....	40

**A. Program Description**

**1. Issued By**

U.S. Department of Homeland Security (DHS)/Office for Civil Rights and Civil Liberties (CRCL)

**2. Assistance Listings Number**

97.102

**3. Assistance Listings Title**

Case Management Pilot Program

**4. Funding Opportunity Title**

Fiscal Year 2021 Case Management Pilot Program

**5. Funding Opportunity Number**

DHS-22-GPD-102-00-01

**6. Authorizing Authority for Program**

Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260

**7. Appropriation Authority for Program**

Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260

**8. Announcement Type**

Initial

**9. Program Category**

Preparedness: Other

**10. Program Overview, Objectives, and Priorities**

**a. *Overview***

The Case Management Pilot Program (CMPP) makes funds available to local governments and/or nonprofits to provide voluntary case management and other services to noncitizens in immigration removal proceedings. CMPP funds will be awarded to eligible subrecipients through the CMPP National Board, chaired by the Officer for Civil Rights and Civil Liberties. The CMPP National Board is charged with awarding funds to eligible local governments and nonprofit organizations and managing the pilot program.

CMPP services are to be made available to non-detained noncitizens in immigration removal proceedings, including those enrolled in U.S. Immigration and Customs Enforcement (ICE) Alternatives to Detention (ATD), in geographic locations served by the CMPP. CMPP service providers will provide case management services including but not limited to: mental health services; human and sex trafficking screening; legal orientation programs; cultural orientation programs; connections to social services; and for individuals who will be removed, reintegration services. Connection to a range of services that CMPP participants

identify as a priority could include access to counsel, affordable housing, childcare, transportation, healthcare, schooling, language classes, and orientation.

CMPP makes funds available to local governments and/or nonprofits to provide case management and culturally, trauma-informed, and linguistically responsive services to noncitizens in immigration removal proceedings who affirmatively volunteer to participate in the program. CMPP funds will be awarded to eligible sub-recipients through the Board. The Board is charged with awarding funds to eligible local governments and nonprofit organizations and managing the pilot program.

The CMPP aligns with the 2020-2024 [DHS Strategic Plan](#) through pursuing Goal 2.3, Enforce U.S. Immigration Laws. Specifically, the CMPP will help the Department achieve the associated desired outcome: “Enforce immigration laws throughout the United States in a manner that upholds the rule of law, American values, and national security.”

**b. *Objectives***

The objective of the CMPP is to ensure that noncitizens engaged in immigration removal proceedings have access to case management, critical services such as mental health services, human and sex trafficking screening, legal orientation programs, cultural orientation programs, and for individuals who will be removed, reintegration services, and other services that CMPP participants identify as a priority.

The CMPP provides an opportunity for the Department to evaluate the effectiveness of case management services for immigrants in removal proceedings that are voluntary and overseen and managed through a National Board chaired by the Officer for Civil Rights and Civil Liberties and comprised of nongovernmental organizations with experience providing and/or evaluating case management programs for immigrants and refugees.

In addition, the CMPP provides an opportunity for DHS to assess demand for CMPP services and for nonprofit and/or local government capacity to provide and/or connect participants to effective services. The Department plans to evaluate effectiveness by looking at what, if any, impact CMPP services have on participants’ attendance at immigration court hearings, compliance with immigration obligations and orders, ability to secure legal representation, and ability to access a range of social services that CMPP participants identify as priorities through a client-led, service planning process.

**c. *Priorities***

The CMPP shall make available case management and other services to noncitizens in immigration removal proceedings that address: mental health; human and sex trafficking screening; legal orientation programs; cultural orientation programs; connections to social services; and departure planning and reintegration services for individuals returning to their home countries.

The CMPP National Board, chaired by the Officer for Civil Rights and Civil Liberties (CRCL), will distribute funds to eligible local governments and eligible nonprofits (hereinafter, subrecipients) and manage the program.

The National Board will:

1. Educate and engage local governments and nonprofit organizations on the design of a request for proposal.
2. Notify eligible local governments and/or eligible nonprofits of the opportunity to apply to provide CMPP services.
3. Select a Secretariat/Fiscal Agent to perform the necessary administrative duties for the Board.
4. Select eligible subrecipients to provide CMPP services.
5. Develop an operational manual and establish criteria for expenditure of funds and distributing funds.
6. Provide copies of award notification materials to subrecipients.
7. Secure required reporting from subrecipients.
8. Ensure subrecipients comply with CMPP program guidelines.
9. Distribute funds to selected subrecipients.
10. Provide consultation and technical assistance regarding the program, as needed.
11. Conduct compliance reviews of expenditures made under this program for subrecipients. The National Board is also responsible for monitoring subrecipient compliance with 2 C.F.R. Part 200.
12. Ensure the subrecipients permit individuals to opt-out of case management services after providing written informed consent.
13. Prioritize awarding CMPP funds to subrecipients, taking into consideration the following factors:
  - The subrecipient is a local government or nonprofit organization;
  - The local government or nonprofit organization has demonstrated capacity to provide voluntary and trauma informed case management services to immigrants, victims of human trafficking, refugees, and/or asylees, especially women and girls and other vulnerable migrants and including services for people with limited English proficiency and people with disabilities;
  - The local government or nonprofit organization has the capability to leverage community resources for program beneficiaries, meet their self-identified needs, and collect and report data related to case management services;
  - The local government or nonprofit organization has the capacity, either internally

or through partnerships with other community-based organizations, to provide case management services, including but not limited to: mental health services; trafficking screening; legal orientation programs; and cultural orientation programs;

- The local government or nonprofit organization has the capacity, either internally or through partnerships with other community-based organizations, to connect participants to the following services:
  - health screening and medical services
  - referral to legal service providers
  - family wellness
  - job training
  - school enrollment
- The local government or nonprofit organization has the capacity, either internally or through a partnership with other community-based, national, or international organizations, to provide departure planning and reintegration services to non-U.S. citizens returning to their countries of citizenship;
- The local government or nonprofit organization preferably has experience with federal grant awards; and
- The local government or nonprofit organization can provide proof of fiscal integrity, as required.

As Chair of the CMPP National Board, the CRCL Officer will:

1. Establish the National Board consisting of qualified organizations and the CRCL Officer.
2. Chair the National Board, using Roberts Rules of Order. Board decisions shall be made by majority vote, with all members having equal voting power.

## **11. Performance Measures**

Recipients will be required to provide critical data, such as CMPP participants' A numbers which will be used for performance management and program evaluation.

### Basic Program Performance Metrics:

- Number of persons enrolled in CMPP and demographic breakdown, including:
  - Member of family unit (caretaker(s)/minor child) (yes/no)
  - Size of family unit
  - Gender
  - Age
  - Race Nationality
  - Preferred language
- Number of CMPP participants who were offered case management services, including the breakdown of how many participants received or declined services. .
- Number of participants who were offered legal orientation and referrals, including whether referrals were to pro-bono or low-bono legal services, including the breakdown

of how many participants received or declined services.

- Number of CMPP participants who identified as a priority and the number who were:
  - Provided mental health screening;
  - Provided mental health services;
  - Provided human trafficking screening;
  - Provided cultural orientation programming;
  - Provided departure planning and reintegration services;
  - Connected to other client identified needed social services such as housing assistance, access to counsel, childcare, transportation, healthcare, schooling, language classes, and orientation

Legal Access Program Performance Metrics:

- Number of CMPP clients without legal counsel at time of CMPP enrollment, and number that secured legal counsel during the program period.
- Length of time to immigration case resolution.
- Breakdown and percentage of forms of immigration relief applied for;
- Breakdown and percentage of forms of immigration relief granted, such as asylum, CAT, etc.

Compliance/Outcome Measures:

- Number of CMPP participants who attended scheduled Executive Office of Immigration Review (EOIR) immigration court hearings, as applicable
  - Include breakdown of those with legal representation and those pro se
- Number of CMPP participants identified as victims of human trafficking
- Number of CMPP clients (1) with a final order of removal during the time they are enrolled in CMPP; and (2) who complied with the order

**B. Federal Award Information**

1. Available Funding for the NOFO: **\$5,000,000.00**

2. Projected Number of Awards: **1**

3. Maximum Award Amount: **Not applicable**

4. Period of Performance: **24 Months**

Extensions to the period of performance are allowed. For additional information on period of performance extensions, please refer to Section H of this NOFO.

DHS/FEMA awards under most programs, including this program, only include one budget period, so it will be same as the period of performance. *See 2 C.F.R. § 200.1 for definitions of “budget period” and “period of performance.”*

5. Projected Period of Performance Start Date(s): **September 1, 2022**

6. Projected Period of Performance End Date(s): **August 31, 2024**

7. Funding Instrument Type: **Grant**

**C. Eligibility Information**

**1. Eligible Applicants**

Case Management Pilot Program National Board

**2. Applicant Eligibility Criteria**

The National Board for the Case Management Pilot Program is the only eligible applicant.

**3. Other Eligibility Criteria**

Not Applicable

**4. Maintenance of Effort (MOE)**

Not Applicable

**5. Cost Share or Match**

None

**D. Application and Submission Information**

**1. Key Dates and Times**

**a. Application Start Date:** 06/28/2022

**b. Application Submission Deadline:** 07/27/2022 at 5:00 p.m. EST.

All applications **must** be received by the established deadline.

The Non-Disaster (ND) Grants System has a date stamp that indicates when an application is submitted. Applicants will receive an electronic message confirming receipt of their submission. For additional information on how an applicant will be notified of application receipt, see the subsection titled “Timely Receipt Requirements and Proof of Timely Submission” in Section D of this NOFO.

**FEMA will not review applications that are received after the deadline or consider these late applications for funding.** FEMA may, however, extend the application deadline on request for any applicant who can demonstrate that good cause exists to justify extending the deadline. Good cause for an extension may include technical problems outside of the applicant’s control that prevent submission of the application by the deadline, other exigent or emergency circumstances, or statutory requirements for FEMA to make an award.

**Applicants experiencing technical problems outside of their control must notify FEMA as soon as possible and before the application deadline.** Failure to timely notify FEMA of the issue that prevented the timely filing of the application may preclude consideration of the

award. “Timely notification” of FEMA means: prior to the application deadline and within 48 hours after the applicant became aware of the issue.

A list of FEMA contacts can be found in Section G of this NOFO, “DHS Awarding Agency Contact Information.” For additional assistance using the ND Grants System, please contact the ND Grants Service Desk at (800) 865-4076 or [NDGrants@fema.dhs.gov](mailto:NDGrants@fema.dhs.gov). The ND Grants Service Desk is available Monday through Friday, 9:00 AM – 6:00 PM Eastern Time (ET). For programmatic or grants management questions, please contact your Program Analyst or Grants Specialist. If applicants do not know who to contact or if there are programmatic questions or concerns, please contact the Centralized Scheduling and Information Desk (CSID) by phone at (800) 368-6498 or by e-mail at [askcsid@fema.dhs.gov](mailto:askcsid@fema.dhs.gov), Monday through Friday, 9:00 AM – 5:00 PM ET.

For additional information on how an applicant will be notified of application receipt, see the subsection titled “Timely Receipt Requirements and Proof of Timely Submission” in Section D of this NOFO.

- c. ***Anticipated Funding Selection Date :*** No later than 08/15/2022
- d. ***Anticipated Award Date:*** No later than 09/01/2022
- e. ***Other Key Dates***

<b>Event</b>	<b>Suggested Deadline for Completion</b>
	Four weeks before actual submission deadline
Obtaining Unique Entity Identifier (UEI) number	
Obtaining a valid EIN	Four weeks before actual submission deadline
Creating an account with login.gov	Four weeks before actual submission deadline
Registering in SAM or Updating SAM registration	Four weeks before actual submission deadline
Registering in Grants.gov	Four weeks before actual submission deadline
Starting application in Grants.gov	One week before actual submission deadline
Registering in ND Grants	
Submitting the final application in ND Grants	By the submission deadline

## 2. Agreeing to Terms and Conditions of the Award

By submitting an application, applicants agree to comply with the requirements of this NOFO and the terms and conditions of the award, should they receive an award.

## 3. Address to Request Application Package

Initial applications are processed through the [Grants.gov](https://www.grants.gov) portal. Final applications are completed and submitted through FEMA’s Non-Disaster Grants (ND Grants) System. Application forms and instructions are available at Grants.gov. To access these materials, go to <http://www.grants.gov>.

Hard copies of the NOFO can be downloaded at [Grants.gov](https://Grants.gov) or obtained via email from the Awarding Office points of contact listed in Section G of this NOFO, “DHS Awarding Agency Contact Information” or by TTY (800) 462-7585.

**4. Steps Required to Obtain a Unique Entity Identifier, Register in the System for Award Management (SAM), and Submit an Application**

Applying for an award under this program is a multi-step process and requires time to complete. Applicants are encouraged to register early as the registration process can take four weeks or more to complete. Therefore, registration should be done in sufficient time to ensure it does not impact your ability to meet required submission deadlines.

Please review the table above for estimated deadlines to complete each of the steps listed. Failure of an applicant to comply with any of the required steps before the deadline for submitting an application may disqualify that application from funding.

To apply for an award under this program, all applicants must:

- a. Apply for, update, or verify their Unique Entity Identifier (UEI) number from SAM.gov and Employer Identification Number (EIN) from the Internal Revenue Service;
- b. In the application, provide a valid EIN number;
- c. Have an account with [login.gov](https://login.gov);
- d. Register for, update, or verify their SAM account and ensure the account is active before submitting the application;
- e. Create a Grants.gov account;
- f. Add a profile to a Grants.gov account;
- g. Establish an Authorized Organizational Representative (AOR) in Grants.gov;
- h. Register in ND Grants
- i. Submit an initial application in Grants.gov;
- j. Submit the final application in ND Grants, including electronically signing applicable forms; and
- k. Continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. As part of this, applicants must also provide information on an applicant’s immediate and highest-level owner and subsidiaries, as well as on all predecessors that have been awarded federal contracts or federal financial assistance within the last three years, if applicable.

Specific instructions on how to apply for, update, or verify a UEI number or SAM registration or establish an AOR are included below in the steps for applying through Grants.gov.

Applicants are advised that FEMA may not make a federal award until the applicant has complied with all applicable SAM requirements. Therefore, an applicant’s SAM registration must be active not only at the time of application, but also during the application review period and when FEMA is ready to make a federal award. Further, as noted above, an

applicant's or recipient's SAM registration must remain active for the duration of an active federal award. If an applicant's SAM registration is expired at the time of application, expires during application review, or expires any other time before award, FEMA may determine that the applicant is not qualified to receive a federal award and use that determination as a basis for making a federal award to another applicant.

Per 2 C.F.R. § 25.110(c)(2)(iii), if an applicant is experiencing exigent circumstances that prevents it from receiving a UEI number and completing SAM registration prior to receiving a federal award, the applicant must notify FEMA as soon as possible by contacting [askcsid@fema.dhs.gov](mailto:askcsid@fema.dhs.gov) and providing the details of the circumstances that prevent completion of these requirements. If FEMA determines that there are exigent circumstances and FEMA has decided to make an award, the applicant will be required to obtain a UEI number and complete SAM registration within 30 calendar days of the federal award date.

## **5. Electronic Delivery**

DHS is participating in the Grants.gov initiative to provide the grant community with a single site to find and apply for grant funding opportunities. DHS encourages or requires applicants to submit their applications online through Grants.gov, depending on the funding opportunity.

For this funding opportunity, FEMA requires applicants to submit initial applications through Grants.gov and a final application through ND Grants.

## **6. How to Register to Apply through Grants.gov**

### **a. General Instructions:**

Registering and applying for an award under this program is a multi-step process and requires time to complete. Read the instructions below about registering to apply for FEMA funds. Applicants should read the registration instructions carefully and prepare the information requested before beginning the registration process. Reviewing and assembling the required information before beginning the registration process will alleviate last-minute searches for required information.

**The registration process can take up to four weeks to complete.** To ensure an application meets the deadline, applicants are advised to start the required steps well in advance of their submission.

Organizations must have a UEI, Employer Identification Number (EIN), and an active System for Award Management (SAM) registration.

Organizations must also have a Grants.gov account to apply for an award under this program. Creating a Grants.gov account can be completed online in minutes, but UEI and SAM registrations may take several weeks. Therefore, an organization's registration should be done in sufficient time to ensure it does not impact the entity's ability to meet required application submission deadlines. Complete organization instructions can be found on Grants.gov here: <https://www.grants.gov/web/grants/applicants/organization-registration.html>.

**b. Obtain a UEI Number:**

All entities applying for funding, including renewal funding, prior to April 4, 2022, must have a UEI number. Applicants must enter the UEI number in the applicable data entry field on the SF-424 form.

For more detailed instructions for obtaining a UEI number, refer to: [Sam.gov](https://www.sam.gov).

**c. Obtain Employer Identification Number**

In addition to having a UEI number, all entities applying for funding must provide an Employer Identification Number (EIN). The EIN can be obtained from the IRS by visiting: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>.

**d. Create a login.gov account:**

Applicants must have a login.gov account in order to register with SAM or update their SAM registration. Applicants can create a login.gov account here:

[https://secure.login.gov/sign\\_up/enter\\_email?request\\_id=34f19fa8-14a2-438c-8323-a62b99571fd3](https://secure.login.gov/sign_up/enter_email?request_id=34f19fa8-14a2-438c-8323-a62b99571fd3)

Applicants only have to create a login.gov account once. For applicants that are existing SAM users, use the same email address for the login.gov account as with SAM.gov so that the two accounts can be linked.

For more information on the login.gov requirements for SAM registration, refer to:

<https://www.sam.gov/SAM/pages/public/loginFAQ.jsf>

**e. Register with SAM:**

All organizations applying online through Grants.gov must register with SAM. Failure to register with SAM will prevent your organization from applying through Grants.gov. SAM registration must be renewed annually.

For more detailed instructions for registering with SAM, refer to:

<https://www.grants.gov/web/grants/applicants/organization-registration/step-2-register-with-sam.html>

Note: As a new requirement per 2 C.F.R. § 25.200, applicants must also provide the applicant's immediate and highest-level owner, subsidiaries, and predecessors that have been awarded federal contracts or federal financial assistance within the last three years, if applicable.

**I. ADDITIONAL SAM REMINDERS**

Existing SAM.gov account holders should check their account to make sure it is "ACTIVE." SAM registration should be completed at the very beginning of the application period and should be renewed annually to avoid being "INACTIVE." **Please allow plenty of time before the grant application submission deadline to obtain a UEI number and then to register in SAM. It may be four weeks or more after an applicant submits the SAM**

**registration before the registration is active in SAM, and then it may be an additional 24 hours before FEMA's system recognizes the information.**

It is imperative that the information applicants provide is correct and current. Please ensure that your organization's name, address, and Employer Identification Number, or EIN, are up to date in SAM and that the UEI used in SAM is the same one used to apply for all other FEMA awards. Payment under any FEMA award is contingent on the recipient's having a current SAM registration.

**II. HELP WITH SAM**

The SAM quick start guide for new recipient registration and SAM video tutorial for new applicants are tools created by the General Services Administration (GSA) to assist those registering with SAM. If applicants have questions or concerns about a SAM registration, please contact the Federal Support Desk at <https://www.fsd.gov/fsd-gov/home.do> or call toll free (866) 606-8220.

**f. *Create a Grants.gov Account:***

The next step in the registration process is to create an account with Grants.gov. Applicants must know their organization's UEI to complete this process.

For more information, follow the on-screen instructions or refer to:

<https://www.grants.gov/web/grants/applicants/registration.html>.

See also Section D.8 in this NOFO, “Submitting the Final Application in ND Grants,” for instructions on how to register early in ND Grants.

**g. *Add a Profile to a Grants.gov Account:***

A profile in Grants.gov corresponds to a single applicant organization the user represents (i.e., an applicant) or an individual applicant. If you work for or consult with multiple organizations and have a profile for each, you may log in to one Grants.gov account to access all of your grant applications. To add an organizational profile to your Grants.gov account, enter the UEI for the organization in the UEI field while adding a profile.

For more detailed instructions about creating a profile on Grants.gov, refer to:

<https://www.grants.gov/web/grants/applicants/registration/add-profile.html>.

**h. *EBiz POC Authorized Profile Roles:***

After you register with Grants.gov and create an Organization Applicant Profile, the organization applicant's request for Grants.gov roles and access is sent to the EBiz POC. The EBiz POC will then log in to Grants.gov and authorize the appropriate roles, which may include the Authorized Organization Representative (AOR) role, thereby giving you permission to complete and submit applications on behalf of the organization. You will be able to submit your application online any time after you have been assigned the AOR role.

For more detailed instructions about creating a profile on Grants.gov, refer to:

<https://www.grants.gov/web/grants/applicants/registration/authorize-roles.html>.

i. ***Track Role Status:***

To track your role request, refer to:

<https://www.grants.gov/web/grants/applicants/registration/track-role-status.html>.

j. ***Electronic Signature:***

When applications are submitted through Grants.gov, the name of the organization applicant with the AOR role that submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC **must** authorize individuals who are able to make legally binding commitments on behalf of the organization as an AOR; **this step is often missed, and it is crucial for valid and timely submissions.**

## 7. How to Submit an Initial Application to FEMA via Grants.gov

Standard Form 424 (SF-424) is the initial application for this NOFO.

Grants.gov applicants can apply online using a workspace. A workspace is a shared, online environment where members of a grant team may simultaneously access and edit different web forms within an application. For each Notice of Funding Opportunity, you can create individual instances of a workspace. Applicants are encouraged to submit their initial applications in Grants.gov at least seven days calendar before the application deadline.

In Grants.gov, applicants need to submit the following forms:

- SF-424, Application for Federal Assistance
- Grants.gov Lobbying Form, Certification Regarding Lobbying

Below is an overview of applying on Grants.gov. For access to complete instructions on how to apply for opportunities using Workspace, refer to:

<https://www.grants.gov/web/grants/applicants/workspace-overview.html>

a. ***Create a Workspace:***

Creating a workspace allows you to complete it online and route it through your organization for review before submitting.

b. ***Complete a Workspace:***

Add participants to the workspace to work on the application together, complete all the required forms online or by downloading PDF versions, and check for errors before submission.

c. ***Adobe Reader:***

If you decide not to apply by filling out webforms you can download individual PDF forms in Workspace so that they will appear similar to other Standard or DHS forms. The individual PDF forms can be downloaded and saved to your local device storage, network drive(s), or external drives, then accessed through Adobe Reader.

NOTE: Visit the Adobe Software Compatibility page on Grants.gov to download the appropriate version of the software at: <https://www.grants.gov/web/grants/applicants/adobe-software-compatibility.html>

**d. *Mandatory Fields in Forms:***

In the forms, you will note fields marked with an asterisk and a different background color. These fields are mandatory fields that must be completed to successfully submit your application.

**e. *Complete SF-424 Fields First:***

The forms are designed to fill in common required fields across other forms, such as the applicant name, address, and UEI number. To trigger this feature, an applicant must complete the SF-424 information first. Once it is completed, the information will transfer to the other forms.

**f. *Submit a Workspace:***

An application may be submitted through workspace by clicking the “Sign and Submit” button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application package at least 24-48 hours prior to the close date to provide you with time to correct any potential technical issues that may disrupt the application submission.

**g. *Track a Workspace:***

After successfully submitting a workspace package, a Grants.gov Tracking Number (GRANTXXXXXXX) is automatically assigned to the application. The number will be listed on the confirmation page that is generated after submission. Using the tracking number, access the Track My Application page under the Applicants tab or the Details tab in the submitted workspace.

**h. *Additional Training and Applicant Support:***

For additional training resources, including video tutorials, refer to:  
<https://www.grants.gov/web/grants/applicants/applicant-training.html>

Grants.gov provides applicants 24/7 (except federal holidays) support via the toll-free number (800) 518-4726, email at [support@grants.gov](mailto:support@grants.gov) and the website at <https://www.grants.gov/support.html>. For questions related to the specific grant opportunity, contact the number listed in the application package of the grant you are applying for.

If you are experiencing difficulties with your submission, it is best to call the Grants.gov Support Center and get a ticket number. The Support Center ticket number will assist FEMA with tracking your issue and understanding background information on the issue.

**8. Submitting the Final Application in ND Grants**

After submitting the initial application in Grants.gov, eligible applicants will be notified by FEMA and asked to proceed with submitting their complete application package in ND Grants. Applicants can register early with ND Grants and are encouraged to begin their ND

Grants registration at the time of this announcement or, at the latest, seven days before the application deadline. Early registration will allow applicants to have adequate time to start and complete their applications.

Applicants needing assistance registering for the ND Grants system should contact [ndgrants@fema.dhs.gov](mailto:ndgrants@fema.dhs.gov) or (800) 865-4076. For step-by-step directions on using the ND Grants system and other guides, please see <https://www.fema.gov/grants/guidance-tools/non-disaster-grants-management-system>.

In ND Grants, applicants will be prompted to submit the standard application information and any program-specific information required as described in Section D.10 of this NOFO, “Content and Form of Application Submission.”. The Standard Forms (SF) are auto generated in ND Grants, but applicants may access these forms in advance through the Forms tab under the [SF-424 family on Grants.gov](#). Applicants should review these forms before applying to ensure they have all the information required.

For additional application submission requirements, including program-specific requirements, please refer to the subsection titled “Content and Form of Application Submission” under Section D of this NOFO.

## **9. Timely Receipt Requirements and Proof of Timely Submission**

As application submission is a two-step process, the applicant with the AOR role who submitted the application in Grants.gov will receive an acknowledgement of receipt and a tracking number (GRANTXXXXXXXX) from Grants.gov with the successful transmission of its initial application. **This notification does not serve as proof of timely submission, as the application is not complete until it is submitted in ND Grants.** Applicants can also view the ND Grants Agency Tracking Number by accessing the Details tab in the submitted workspace section in Grants.gov, under the Agency Tracking Number column. Should the Agency Tracking Number not appear, the application has not yet migrated from Grants.gov into the ND Grants System. Please allow 24 hours for your ND Grants application tracking number to migrate.

All applications must be received in ND Grants by **5:00 PM ET** on the application deadline. Proof of timely submission is automatically recorded by ND Grants. An electronic date/time stamp is generated within the system when the application is successfully received by ND Grants. Additionally, the applicant(s) listed as contacts on the application will receive a system-generated email to confirm receipt.

## **10. Content and Form of Application Submission**

### **a. Standard Required Application Forms and Information**

The following forms or information are required to be submitted in either Grants.gov or ND Grants. The Standard Forms (SF) are submitted either through Grants.gov, through forms generated in ND Grants, or as an attachment in ND Grants. Applicants may also access the SFs at <https://www.grants.gov/web/grants/forms/sf-424-family.html>.

#### **I. GRANTS.GOV**

- **SF-424, Application for Federal Assistance**, initial application submitted through Grants.gov
- **Grants.gov Lobbying Form, Certification Regarding Lobbying**, submitted through Grants.gov

**II. ND GRANTS**

- **SF-424A, Budget Information (Non-Construction)**, submitted via the forms generated by ND Grants
  - **For construction under an award, submit SF-424C, Budget Information (Construction)**, submitted via the forms generated by ND Grants, in addition to or instead of SF-424A
- **SF-424B, Standard Assurances (Non-Construction)**, submitted via the forms generated by ND Grants
  - **For construction under an award, submit SF-424D, Standard Assurances (Construction)**, submitted via the forms generated by ND Grants, in addition to or instead of SF-424B
- **SF-LLL, Disclosure of Lobbying Activities**, submitted via the forms generated by ND Grants

**b. Program-Specific Required Forms and Information**

The applicant must develop a work plan that includes a common set of agreed upon priorities, as explained in the Priorities section above, and a narrative describing: (1) the proposed subrecipient selection process, including the timeframe for selection(s); (2) how the National Board will provide oversight and monitoring of subrecipients, including the plan to collect information needed for Performance Progress Reports; (3) proposed quality assurance activities to be conducted by the National Board; and (4) plans to provide technical assistance to subrecipients, if needed. The work plan shall be submitted as a PDF file in conjunction with the applicant's response to this NOFO.

**11. Other Submission Requirements**

Not Applicable

**12. Intergovernmental Review**

An intergovernmental review may be required. Applicants must contact their state's Single Point of Contact (SPOC) to comply with the state's process under Executive Order 12372. (See <https://www.archives.gov/federal-register/codification/executive-order/12372.html>; (<https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf>).

**13. Funding Restrictions and Allowable Costs**

All costs charged to awards covered by this NOFO must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 2 C.F.R. Part 200, unless otherwise indicated in the NOFO, or the terms and conditions of the award. This includes, among other requirements, that costs must be incurred, and products and services must be delivered, within the period of performance of the award. See 2 C.F.R. § 200.403(h) (referring to budget periods, which for FEMA awards under this program is the same as the period of performance).

In general, the Cost Principles establish standards for the allowability of costs, provide detailed guidance on the cost accounting treatment of costs as direct or administrative costs, and set forth allowability principles for selected items of cost. More specifically, except as otherwise stated in this NOFO, the terms and condition of an award, or other program materials, costs charged to awards covered by this NOFO must be consistent with the Cost Principles for Federal Awards located at 2 C.F.R. Part 200, Subpart E. In order to be allowable, all costs charged to a FEMA award or applied to the cost share must be reasonable in nature and amount and allocable to the particular FEMA award.

Additionally, all costs charged to awards must comply with the grant program's applicable statutes, policies, requirements in this NOFO as well as with the terms and conditions of the award. If FEMA staff identify costs that are inconsistent with any of these requirements, these costs may be disallowed, and FEMA may recover funds as appropriate, consistent with applicable laws, regulations, and policies.

As part of those requirements, grant recipients and subrecipients may only use federal funds or funds applied to a cost share for the purposes set forth in this NOFO and the terms and conditions of the award, and those costs must be consistent with the statutory authority for the award.

Grant funds may not be used for matching funds for other federal grants/cooperative agreements, lobbying, or intervention in federal regulatory or adjudicatory proceedings. In addition, federal funds may not be used to sue the federal government or any other government entity.

**a. *Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services***

Recipients and subrecipients of FEMA federal financial assistance are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute – as it applies to FEMA recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

Guidance is available at Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim) FEMA Policy #405-143-1, or superseding document.

Additional guidance is available: Contract Provisions Guide: Navigating Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards (fema.gov).

**Effective August 13, 2020**, FEMA recipients and subrecipients **may not** use any FEMA funds under open or new awards to:

- (1) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (2) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or
- (3) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

## **II. DEFINITIONS**

Per section 889(f)(2)-(3) of the FY 2019 NDAA and 2 C.F.R. § 200.216, covered telecommunications equipment or services means:

- i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);
- ii. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- iii. Telecommunications or video surveillance services provided by such entities or using such equipment; or
- iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People's Republic of China.

Examples of the types of products covered by this prohibition include phones, internet, video surveillance, and cloud servers when produced, provided, or used by the entities listed in the definition of “covered telecommunications equipment or services.” *See* 2 C.F.R. § 200.471.

### **b. *Pre-Award Costs***

None

### **c. *Management and Administration (M&A) Costs***

M&A Costs are available for activities directly related to administering the award. The National Board may use up to 9.5% of the total amount of the award for their M&A Costs, inclusive of up to 8% available to the National Board Secretariat/Fiscal Agent. The National Board may assign a portion of their M&A for subrecipient management and

administration. However, the combined total of M&A funds retained by the National Board and the amount assigned to subrecipients shall not exceed 9.5% of the total award.

**E. Application Review Information**

**1. Application Evaluation Criteria**

**a. *Programmatic Criteria***

Applications will be reviewed to ensure conformance with the Eligibility Criteria in this NOFO and Application Submission requirements.

**b. *Financial Integrity Criteria***

Prior to making a federal award, FEMA is required by 31 U.S.C. § 3354, as enacted by the Payment Integrity Information Act of 2019, Pub. L. No. 116-117 (2020); 41 U.S.C. § 2313; and 2 C.F.R. § 200.206 to review information available through any Office of Management and Budget (OMB)-designated repositories of governmentwide eligibility qualification or financial integrity information, including whether the applicant is suspended or debarred. FEMA may also pose additional questions to the applicant to aid in conducting the pre-award risk review. Therefore, application evaluation criteria may include the following risk-based considerations of the applicant:

- i. Financial stability.
- ii. Quality of management systems and ability to meet management standards.
- iii. History of performance in managing federal award.
- iv. Reports and findings from audits.
- v. Ability to effectively implement statutory, regulatory, or other requirements.

**c. *Supplemental Financial Integrity Criteria and Review***

Prior to making a federal award where the anticipated total federal share will be greater than the simplified acquisition threshold, currently \$250,000:

- i. FEMA is required to review and consider any information about the applicant, including information on the applicant's immediate and highest-level owner, subsidiaries, and predecessors, if applicable, that is in the designated integrity and performance system accessible through the System for Award Management (SAM), which is currently the [Federal Awardee Performance and Integrity Information System](#) (FAPIIS).
- ii. An applicant, at its option, may review information in FAPIIS and comment on any information about itself that a federal awarding agency previously entered.
- iii. FEMA will consider any comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 2 C.F.R. § 200.206.

**2. Review and Selection Process**

The National Board's application will be evaluated and finalized for funding based on the following:

- The proposed projects are compatible with CMPP requirements.
- The proposed costs are complete, reasonable, and cost-effective in relation to proposed projects and tasks.

## **F. Federal Award Administration Information**

### **1. Notice of Award**

Before accepting the award, the AOR and recipient should carefully read the award package. The award package includes instructions on administering the grant award and the terms and conditions associated with responsibilities under federal awards. **Recipients must accept all conditions in this NOFO as well as any specific terms and conditions in the Notice of Award to receive an award under this program.**

Notification of award approval is made through the ND Grants system through an automatic electronic mail to the recipient's authorized official listed in the initial application. The recipient should follow the directions in the notification to confirm acceptance of the award.

Recipients must accept their awards no later than thirty (30) calendar days from the award date. The recipient shall notify FEMA of its intent to accept and proceed with work under the award or provide a notice of intent to decline through the ND Grants system. For instructions on how to accept or decline an award in the ND Grants system, please see the ND Grants Grant Recipient User Guide, which is available at <https://www.fema.gov/grants/guidance-tools/non-disaster-grants-management-system> along with other ND Grants materials.

Funds will remain on hold until the recipient accepts the award through the ND Grants system and all other conditions of the award have been satisfied or until the award is otherwise rescinded. Failure to accept a grant award within the 30-day timeframe may result in a loss of funds.

FEMA, CRCL, or DHS may initiate a formal evaluation of programs, projects, or activities supported by this grant. By accepting grant funds, recipients agree to participate in the evaluation, which may include analysis of individuals who benefit from the grant and providing access to program operating personnel and participants, as specified by the evaluator(s) until the period of performance ends.

### **2. Pass-Through Requirements**

The National Board is to disburse the funds within 3 months of the date FEMA awards the funds to the National Board.

### **3. Administrative and National Policy Requirements**

In addition to the requirements of in this section and in this NOFO, FEMA may place specific terms and conditions on individual awards in accordance with 2 C.F.R. Part 200.

**a. DHS Standard Terms and Conditions**

All successful applicants for DHS grant and cooperative agreements are required to comply with DHS Standard Terms and Conditions, which are available online at: [DHS Standard Terms and Conditions](#).

The applicable DHS Standard Terms and Conditions will be those in effect at the time the award was made. What terms and conditions will apply for the award will be clearly stated in the award package at the time of award.

**b. Ensuring Protection of Civil Rights**

As the Nation works towards achieving the [National Preparedness Goal](#), it is important to continue to protect the civil rights of individuals. Recipients and subrecipients must carry out their programs and activities, including those related to the building, sustainment, and delivery of core capabilities, in a manner that respects and ensures the protection of civil rights for all populations.

Federal civil rights statutes, such as Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964, along with DHS and FEMA regulations, prohibit discrimination on the basis of race, color, national origin, sex, religion, age, disability, limited English proficiency, or economic status in connection with programs and activities receiving [federal financial assistance](#) from FEMA.

The DHS Standard Terms and Conditions include a fuller list of the civil rights provisions that apply to recipients. These terms and conditions can be found in the [DHS Standard Terms and Conditions](#). Additional information on civil rights provisions is available at <https://www.fema.gov/office-equal-rights>.

Monitoring and oversight requirements in connection with recipient compliance with federal civil rights laws are also authorized pursuant to Section 308(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93-288, as amended, and 44 C.F.R. Part 7.

**c. Environmental Planning and Historic Preservation (EHP) Compliance**

As a federal agency, FEMA is required to consider the effects of its actions on the environment and historic properties to ensure that all activities and programs funded by FEMA, including grant-funded projects, comply with federal EHP laws, Executive Orders, regulations, and policies, as applicable.

**Recipients and subrecipients proposing projects that have the potential to impact the environment, including, but not limited to, the construction of communication towers, modification or renovation of existing buildings, structures, and facilities, or new construction including replacement of facilities, must participate in the FEMA EHP review process.** The EHP review process involves the submission of a detailed project description along with any supporting documentation requested by FEMA in order to determine whether the proposed project has the potential to impact environmental resources or historic properties.

In some cases, FEMA is also required to consult with other regulatory agencies and the public in order to complete the review process. Federal law requires EHP review to be completed before federal funds are released to carry out proposed projects. FEMA may not be able to fund projects that are not in compliance with applicable EHP laws, Executive Orders, regulations, and policies.

DHS and FEMA EHP policy is found in directives and instructions available on the [FEMA.gov EHP page](#), the FEMA website page that includes documents regarding EHP responsibilities and program requirements, including implementation of the National Environmental Policy Act and other EHP regulations and Executive Orders. Individual FEMA programs have separate procedures to conduct and document EHP review. Guidance for individual grant programs are available from applicable program offices.

#### 4. Reporting

Recipients are required to submit various financial and programmatic reports as a condition of award acceptance. Future awards and funds drawdown may be withheld if these reports are delinquent.

##### a. *Financial Reporting Requirements*

###### I. FEDERAL FINANCIAL REPORT (FFR)

Recipients must report obligations and expenditures through the FFR form (SF-425) to FEMA.

Recipients may review the Federal Financial Reporting Form (FFR) (SF-425) at <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html#sortby=1>

Recipients must file the FFR electronically using the Payment and Reporting Systems ([PARS](#)).

###### II. FFR REPORTING PERIODS AND DUE DATES

An FFR must be submitted quarterly throughout the POP, including partial calendar quarters, as well as in periods where no grant award activity occurs. The final FFR is due within 120 calendar days after the end of the POP. Future awards and fund drawdowns may be withheld if these reports are delinquent, demonstrate lack of progress, or are insufficient in detail.

Except for the final FFR due at 120 calendar days after the end of the POP for purposes of closeout, the following reporting periods and due dates apply for the FFR:

Reporting Period	Report Due Date
October 1 – December 31	January 30
January 1 – March 31	April 30
April 1 – June 30	July 30

July 1 – September 30	October 30
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**b. Programmatic Performance Reporting Requirements**

**PERFORMANCE PROGRESS REPORT (PPR)**

Recipients will be required to provide critical data, such as CMPP participant's A numbers, which will be used for performance management and program evaluation.

The National Board shall submit in the ND Grants System quarterly performance progress reports and a final PPR at grant closeout. A narrative shall also be provided in each quarterly PPR, reporting the overall accomplishments in the quarter, barriers to implementations, and should include metrics such as the following (if available):

**Basic Program Performance Metrics:**

- Number of persons enrolled in CMPP and demographic breakdown, including:
  - Member of family unit (caretaker(s)/minor child) (yes/no)
  - Size of family unit
  - Gender
  - Age
  - Race Nationality
  - Preferred language
- Number of CMPP participants who were offered case management services, including the breakdown of how many participants received or declined services. .
- Number of participants who were offered legal orientation and referrals, including whether referrals were to pro-bono or low-bono legal services, including the breakdown of how many participants received or declined services.
- Number of CMPP participants who identified as a priority and the number who were:
  - Provided mental health screening;
  - Provided mental health services;
  - Provided human trafficking screening;
  - Provided cultural orientation programming;
  - Provided departure planning and reintegration services;
  - Connected to other client identified needed social services such as housing assistance, access to counsel, childcare, transportation, healthcare, schooling, language classes, and orientation.

**Legal Access Program Performance Metrics:**

- Number of CMPP clients without legal counsel at time of CMPP enrollment, and number that secured legal counsel during the program period.
- Length of time to immigration case resolution.
- Breakdown and percentage of forms of immigration relief applied for.
- Breakdown and percentage of forms of relief granted, such as asylum, CAT, etc.

Compliance/Outcome Measures:

- Number of CMPP participants who attended scheduled Executive Office of Immigration Review (EOIR) immigration court hearings, as applicable
  - Include breakdown of those with legal representation and those pro se
- Number of CMPP participants identified as victims of human trafficking
- Number of CMPP clients (1) with a final order of removal during the time they are enrolled in CMPP; and (2) who complied with the order

The final PPR shall be provided at the time of grant closeout and contain actual data for the preceding service categories and a narrative summary of the grant's overall accomplishments.

**c. *Closeout Reporting Requirements***

**I. CLOSEOUT REPORTING**

Within 120 days after the end of the period of performance for the prime award or after an amendment has been issued to close out an award before the original POP ends, recipients must liquidate all financial obligations and must submit the following:

- i. The final request for payment, if applicable.
- ii. The final FFR (SF-425).
- iii. The final progress report detailing all accomplishments, including a narrative summary of the impact of those accomplishments throughout the period of performance.
- v. Other documents required by this NOFO, terms and conditions of the award, or other FEMA or CRCL guidance.

In addition, pass-through entities are responsible for closing out their subawards as described in 2 C.F.R. § 200.344; subrecipients are required to submit closeout materials within 90 calendar days of the period of performance end date. When a subrecipient completes all closeout requirements, pass-through entities must promptly complete all closeout actions for subawards in time for the recipient to submit all necessary documentation and information to FEMA during the closeout of the prime award.

After the prime award closeout reports have been reviewed and approved by FEMA, a closeout notice will be completed to close out the grant. The notice will indicate the period of performance as closed, list any remaining funds that will be de-obligated, and address the requirement of maintaining the grant records for at least three years from the date of the final FFR. The record retention period may be longer, such as due to an audit or litigation, for equipment or real property used beyond the period of performance, or due to other circumstances outlined in 2 C.F.R. § 200.334.

The recipient is responsible for refunding to FEMA any balances of unobligated cash that FEMA paid that are not authorized to be retained per 2 C.F.R. § 200.344(d).

**II. ADMINISTRATIVE CLOSEOUT**

Administrative closeout is a mechanism for FEMA to unilaterally move forward with closeout of an award using available award information in lieu of final reports from the recipient per 2 C.F.R. § 200.344(h)-(i). It is a last resort available to FEMA, and if FEMA needs to administratively close an award, this may negatively impact a recipient's ability to obtain future funding. This mechanism can also require FEMA to make cash or cost adjustments and ineligible cost determinations based on the information it has, which may result in identifying a debt owed to FEMA by the recipient.

When a recipient is not responsive to FEMA's reasonable efforts to collect required reports needed to complete the standard closeout process, FEMA is required under 2 C.F.R. § 200.344(h) to start the administrative closeout process within the regulatory timeframe. FEMA will make at least three written attempts to collect required reports before initiating administrative closeout. If the recipient does not submit all required reports in accordance with 2 C.F.R. § 200.344, this NOFO, and the terms and conditions of the award, FEMA must proceed to administratively close the award with the information available within one year of the period of performance end date. Additionally, if the recipient does not submit all required reports within one year of the period of performance end date, per 2 C.F.R. § 200.344(i), FEMA must report in FAPIIS the recipient's material failure to comply with the terms and conditions of the award.

If FEMA administratively closes an award where no final FFR has been submitted, FEMA uses that administrative closeout date in lieu of the final FFR submission date as the start of the record retention period under 2 C.F.R. § 200.334.

In addition, if an award is administratively closed, FEMA may decide to impose remedies for noncompliance per 2 C.F.R. § 200.339, consider this information in reviewing future award applications, or apply special conditions to existing or future awards.

**d. Additional Reporting Requirements**

**i. DISCLOSING INFORMATION PER 2 C.F.R. § 180.335**

This reporting requirement pertains to disclosing information related to government-wide suspension and debarment requirements. Before a recipient enters into a grant award with FEMA, the recipient must notify FEMA if it knows if it or any of the recipient's principals under the award fall under one or more of the four criteria listed at 2 C.F.R. § 180.335:

- i. Are presently excluded or disqualified;
- ii. Have been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. § 180.800(a) or had a civil judgment rendered against it or any of the recipient's principals for one of those offenses within that time period;
- iii. Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses listed in 2 C.F.R. § 180.800(a); or
- iv. Have had one or more public transactions (federal, state, or local) terminated within the preceding three years for cause or default.

At any time after accepting the award, if the recipient learns that it or any of its principals falls under one or more of the criteria listed at 2 C.F.R. § 180.335, the recipient must

provide immediate written notice to FEMA in accordance with 2 C.F.R. § 180.350.

## **II. REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE**

Per 2 C.F.R. Part 200, Appendix I § F.3, the additional post-award reporting requirements in 2 C.F.R. Part 200, Appendix XII may apply to applicants who, if upon becoming recipients, have a total value of currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies that exceeds \$10,000,000 for any period of time during the period of performance of an award under this funding opportunity.

Recipients that meet these criteria must maintain current information reported in FAPIIS about civil, criminal, or administrative proceedings described in paragraph 2 of Appendix XII at the reporting frequency described in paragraph 4 of Appendix XII.

## **III. SINGLE AUDIT REPORT**

For audits of fiscal years beginning on or after December 26, 2014, recipients that expend \$750,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report, also known as the single audit report.

The audit must be performed in accordance with the requirements of U.S. Government Accountability Office's (GAO) Government Auditing Standards, located at <https://www.gao.gov/yellowbook/overview>, and the requirements of Subpart F of 2 C.F.R. Part 200, located at <http://www.ecfr.gov/cgi-bin/text-idx?node=sp2.1.200.f>.

## **5. Monitoring and Oversight**

Per 2 C.F.R. § 200.337, FEMA, through its authorized representatives, has the right, at all reasonable times, to make site visits or conduct desk reviews to review project accomplishments and management control systems to review award progress and to provide any required technical assistance. During site visits or desk reviews, FEMA will review recipients' files related to the award. As part of any monitoring and program evaluation activities, recipients must permit FEMA, upon reasonable notice, to review grant-related records and to interview the organization's staff and contractors regarding the program. Recipients must respond in a timely and accurate manner to FEMA requests for information relating to the award.

Effective monitoring and oversight help FEMA ensure that recipients use grant funds for their intended purpose(s); verify that projects undertaken are consistent with approved plans; and ensure that recipients make adequate progress toward stated goals and objectives.

Additionally, monitoring serves as the primary mechanism to ensure that recipients comply with applicable laws, rules, regulations, program guidance, and requirements. FEMA regularly monitors all grant programs both financially and programmatically in accordance with federal laws, regulations (including 2 C.F.R. Part 200), program guidance, and the terms and conditions of the award. All monitoring efforts ultimately serve to evaluate progress towards grant goals and proactively target and address issues that may threaten grant success during the period of performance.

FEMA staff will periodically monitor recipients to ensure that administrative processes, policies and procedures, budgets, and other related award criteria are meeting Federal Government-wide and FEMA regulations. Aside from reviewing quarterly financial and programmatic reports, FEMA may also conduct enhanced monitoring through either desk-based reviews, onsite monitoring visits, or both. Enhanced monitoring will involve the review and analysis of the financial compliance and administrative processes, policies, activities, and other attributes of each federal assistance award, and it will identify areas where the recipient may need technical assistance, corrective actions, or other support. FEMA, CRCL, or DHS may hire a third-party to carry out program evaluation activities independently of FEMA staff monitoring activities. By accepting grant funds, recipients agree to participate in the evaluation, which may include analysis of individuals who benefit from the grant, and provide access to program operating personnel and participants, as specified by the evaluator(s) for six months after the period of performance ends. .

Financial and programmatic monitoring are complementary processes within FEMA's overarching monitoring strategy that function together to ensure effective grants management, accountability, and transparency; validate progress against grant and program goals; and safeguard federal funds against fraud, waste, and abuse. Financial monitoring primarily focuses on statutory and regulatory compliance with administrative grant requirements, while programmatic monitoring seeks to validate and assist in grant progress, targeting issues that may be hindering achievement of project goals and ensuring compliance with the purpose of the grant and grant program. Both monitoring processes are similar in that they feature initial reviews of all open awards, and additional, in-depth monitoring of grants requiring additional attention.

Recipients and subrecipients who are pass-through entities are responsible for monitoring their subrecipients in a manner consistent with the terms of the federal award at 2 C.F.R. Part 200, including 2 C.F.R. § 200.332. This includes the pass-through entity's responsibility to monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

In terms of overall award management, recipient and subrecipient responsibilities include, but are not limited to: accounting of receipts and expenditures, cash management, maintaining adequate financial records, reporting, and refunding expenditures disallowed by audits, monitoring if acting as a pass-through entity, or other assessments and reviews, and ensuring overall compliance with the terms and conditions of the award or subaward, as applicable, including the terms of 2 C.F.R. Part 200.

## **6. Program Evaluation**

Recipients and subrecipients are encouraged to incorporate program evaluation activities from the outset of their program design and implementation to meaningfully document and measure their progress towards the outcomes proposed. Title I of the Foundations for Evidence-Based Policymaking Act of 2018 ([Evidence Act](#), [Pub. L. No. 115-435 \(2019\)](#)) defines evaluation as “an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and

efficiency.” Evidence Act § 101 (codified at 5 U.S.C. § 311). Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

Evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR Part 200).

In addition, recipients are required to participate in a DHS-led evaluation if selected, which may be carried out by a third-party on behalf of FEMA, CRCL, or DHS.

## **G. DHS Awarding Agency Contact Information**

### **1. Contact and Resource Information**

#### **a. *Program Office Contact***

[Elizabeth.Thornton@hq.dhs.gov](mailto:Elizabeth.Thornton@hq.dhs.gov)

#### **b. *Centralized Scheduling and Information Desk (CSID)***

CSID is a non-emergency comprehensive management and information resource developed by FEMA for grants stakeholders. CSID provides general information on all FEMA grant programs and maintains a comprehensive database containing key personnel contact information at the federal, state, and local levels. When necessary, recipients will be directed to a federal point of contact who can answer specific programmatic questions or concerns. CSID can be reached by phone at (800) 368-6498 or by e-mail at [askcsid@fema.dhs.gov](mailto:askcsid@fema.dhs.gov), Monday through Friday, 9:00 AM – 5:00 PM ET.

#### **c. *Grant Programs Directorate (GPD) Award Administration Division***

GPD’s Award Administration Division (AAD) provides support regarding financial matters and budgetary technical assistance. Additional guidance and information can be obtained by contacting the AAD’s Help Desk via e-mail at [ASK-GMD@fema.dhs.gov](mailto:ASK-GMD@fema.dhs.gov).

#### **e. *Equal Rights***

The FEMA Office of Equal Rights (OER), in coordination with the DHS Office for Civil Rights and Civil Liberties, is responsible for compliance with and enforcement of federal civil rights obligations in connection with programs and services provided by FEMA and administered by recipients of FEMA financial assistance. All inquiries and communications about federal civil rights compliance for FEMA grants under this NOFO should be sent to [FEMA-CivilRightsOffice@fema.dhs.gov](mailto:FEMA-CivilRightsOffice@fema.dhs.gov).

#### **f. *Environmental Planning and Historic Preservation***

The FEMA Office of Environmental Planning and Historic Preservation (OEHP) provides guidance and information about the EHP review process to FEMA programs and FEMA’s recipients and subrecipients. All inquiries and communications about EHP compliance for FEMA grant projects under this NOFO or the EHP review process should be sent to [FEMA-OEHP-NOFOQuestions@fema.dhs.gov](mailto:FEMA-OEHP-NOFOQuestions@fema.dhs.gov).]

## 2. Systems Information

### a. *Grants.gov*

For technical assistance with [Grants.gov](https://www.grants.gov), call the customer support hotline 24 hours per day, 7 days per week (except federal holidays) at (800) 518-4726 or e-mail at [support@grants.gov](mailto:support@grants.gov).

### b. *Non-Disaster (ND) Grants*

For technical assistance with the ND Grants system, please contact the ND Grants Helpdesk at [ndgrants@fema.gov](mailto:ndgrants@fema.gov) or (800) 865-4076, Monday through Friday, 9:00 AM – 6:00 PM ET. User resources are available at <https://www.fema.gov/grants/guidance-tools/non-disaster-grants-management-system>

### c. *Payment and Reporting System (PARS)*

FEMA uses the [Payment and Reporting System \(PARS\)](#) for financial reporting, invoicing, and tracking payments. FEMA uses the Direct Deposit/Electronic Funds Transfer (DD/EFT) method of payment to recipients. To enroll in the DD/EFT, recipients must complete a Standard Form 1199A, Direct Deposit Form. If you have questions about the online system, please call the Customer Service Center at (866) 927-5646 or email [ask-GMD@fema.dhs.gov](mailto:ask-GMD@fema.dhs.gov).

## H. Additional Information

### 1. Period of Performance Extensions

Extensions to the period of performance (POP) for this program are allowed. Extensions to the POP identified in the award will only be considered through formal, written requests to [CRCL.CMPP@hq.dhs.gov](mailto:CRCL.CMPP@hq.dhs.gov) and must contain specific and compelling justifications as to why an extension is required. Recipients are advised to coordinate with [CRCL.CMPP@hq.dhs.gov](mailto:CRCL.CMPP@hq.dhs.gov) as needed when preparing an extension request.

All extension requests must address the following:

- a. The grant program, fiscal year, and award number;
- b. Reason for the delay –including details of the legal, policy, or operational challenges that prevent the final outlay of awarded funds by the deadline;
- c. Current status of the activity(ies);
- d. Approved POP termination date and new project completion date;
- e. Amount of funds drawn down to date;
- f. Remaining available funds, both federal and, if applicable, non-federal;
- g. Budget outlining how remaining federal and, if applicable, non-federal funds will be expended;
- h. Plan for completion, including milestones and timeframes for achieving each milestone and the position or person responsible for implementing the plan for completion; and
- i. Certification that the activity(ies) will be completed within the extended POP without any modification to the original statement of work, as described in the application, or other relevant document and as approved by CRCL and FEMA.

Extension requests will be granted only due to compelling legal, policy, or operational challenges. Extension requests will only be considered for the following reasons:

- Contractual commitments by the recipient or subrecipient with vendors prevent completion of the project, including delivery of equipment or services, within the existing POP;
- The project must undergo a complex environmental review that cannot be completed within the existing POP;
- Projects are long-term by design, and therefore acceleration would compromise core programmatic goals; or
- Where other special or extenuating circumstances exist.

Recipients should submit all proposed extension requests to CRCL for review and approval at least sixty (60) calendar days prior to the end of the POP to allow sufficient processing time.

### **3. Disability Integration**

Pursuant to Section 504 of the Rehabilitation Act of 1973, recipients of FEMA financial assistance must ensure that their programs and activities do not discriminate against qualified individuals with disabilities.

Grant recipients should engage with the whole community to advance individual and community preparedness and to work as a nation to build and sustain resilience. In doing so, recipients are encouraged to consider the needs of individuals with disabilities into the activities and projects funded by the grant.

FEMA expects that the integration of the needs of people with disabilities will occur at all levels, including planning; alerting, notification, and public outreach; training; purchasing of equipment and supplies; protective action implementation; and exercises/drills.

The following are examples that demonstrate the integration of the needs of people with disabilities in carrying out FEMA awards:

- Include representatives of organizations that work with/for people with disabilities on planning committees, work groups and other bodies engaged in development and implementation of the grant programs and activities.
- Hold all activities related to the grant in locations that are accessible to persons with physical disabilities to the extent practicable.
- Acquire language translation services, including American Sign Language, that provide public information across the community and in shelters.
- Ensure shelter-specific grant funds are in alignment with FEMA's [Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters](#).
- If making alterations to an existing building to a primary function area utilizing federal funds, complying with the most recent codes and standards and making path of travel to the primary function area accessible to the greatest extent possible.

- Implement specific procedures used by public transportation agencies that include evacuation and passenger communication plans and measures for individuals with disabilities.
- Identify, create, and deliver training to address any training gaps specifically aimed toward whole-community preparedness. Include and interact with individuals with disabilities, aligning with the designated program capability.
- Establish best practices in inclusive planning and preparedness that consider physical access, language access, and information access. Examples of effective communication access include providing auxiliary aids and services such as sign language interpreters, Computer Aided Real-time Translation (CART), and materials in Braille or alternate formats.

FEMA grant recipients can fund projects towards the resiliency of the whole community, including people with disabilities, such as training, outreach and safety campaigns, provided that the project aligns with this NOFO and the terms and conditions of the award.

#### **4. Conflicts of Interest in the Administration of Federal Awards or Subawards**

For conflicts of interest under grant-funded procurements and contracts, refer to the section on Procurement Integrity in this NOFO and 2 C.F.R. §§ 200.317 – 200.327.

To eliminate and reduce the impact of conflicts of interest in the subaward process, recipients and pass-through entities must follow their own policies and procedures regarding the elimination or reduction of conflicts of interest when making subawards. Recipients and pass-through entities are also required to follow any applicable federal and state, local, tribal, or territorial (SLTT) statutes or regulations governing conflicts of interest in the making of subawards.

The recipient or pass-through entity must disclose to the respective Program Analyst or Program Manager, in writing, any real or potential conflict of interest that may arise during the administration of the federal award, as defined by the federal or SLTT statutes or regulations or their own existing policies, within five days of learning of the conflict of interest. Similarly, subrecipients, whether acting as subrecipients or as pass-through entities, must disclose any real or potential conflict of interest to the recipient or next-level pass-through entity as required by the recipient or pass-through entity's conflict of interest policies, or any applicable federal or SLTT statutes or regulations.

Conflicts of interest may arise during the process of FEMA making a federal award in situations where an employee, officer, or agent, any members of his or her immediate family, his or her partner has a close personal relationship, a business relationship, or a professional relationship, with an applicant, subapplicant, recipient, subrecipient, or FEMA employees.

#### **5. Procurement Integrity**

Through audits conducted by the DHS Office of Inspector General (OIG) and FEMA grant monitoring, findings have shown that some FEMA recipients have not fully adhered to the proper procurement requirements when spending grant funds. Anything less than full compliance with federal procurement requirements jeopardizes the integrity of the grant as

well as the grant program. To assist with determining whether an action is a procurement or instead a subaward, please consult 2 C.F.R. § 200.331.

The below highlights the federal procurement requirements for FEMA recipients when procuring goods and services with federal grant funds. FEMA will include a review of recipients' procurement practices as part of the normal monitoring activities. **All procurement activity must be conducted in accordance with federal procurement standards at 2 C.F.R. §§ 200.317 – 200.327.** Select requirements under these standards are listed below. The recipient and any of its subrecipients must comply with all requirements, even if they are not listed below.

Under 2 C.F.R. § 200.317, when procuring property and services under a federal award, states (including territories) must follow the same policies and procedures they use for procurements from their non-federal funds; additionally, states must now follow 2 C.F.R. § 200.321 regarding socioeconomic steps, 200.322 regarding domestic preferences for procurements, 200.323 regarding procurement of recovered materials, and 2 C.F.R. § 200.327 regarding required contract provisions.

**All other non-federal entities, such as tribes (collectively, non-state entities),** must have and use their own documented procurement procedures that reflect applicable SLTT laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in 2 C.F.R. Part 200. These standards include, but are not limited to, providing for full and open competition consistent with the standards of 2 C.F.R. § 200.319 and § 200.320.

**a. *Important Changes to Procurement Standards in 2 C.F.R. Part 200***

OMB recently updated various parts of Title 2 of the Code of Federal Regulations, among them, the procurement standards. States are now required to follow the socioeconomic steps in soliciting small and minority businesses, women's business enterprises, and labor surplus area firms per 2 C.F.R. § 200.321. All non-federal entities should also, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States per 2 C.F.R. § 200.322.

The recognized procurement methods in 2 C.F.R. § 200.320 have been reorganized into informal procurement methods, which include micro-purchases and small purchases; formal procurement methods, which include sealed bidding and competitive proposals; and noncompetitive procurements. The federal micro-purchase threshold is currently \$10,000, and non-state entities may use a lower threshold when using micro-purchase procedures under a FEMA award. If a non-state entity wants to use a micro-purchase threshold higher than the federal threshold, it must follow the requirements of 2 C.F.R. § 200.320(a)(1)(iii)-(iv). The federal simplified acquisition threshold is currently \$250,000, and a non-state entity may use a lower threshold but may not exceed the federal threshold when using small purchase procedures under a FEMA award.

See 2 C.F.R. §§ 200.216, 200.471, and Appendix II as well as section D.13.a of the NOFO regarding prohibitions on covered telecommunications equipment or services.

**b. *Competition and Conflicts of Interest***

Among the requirements of 2 C.F.R. § 200.319(b) applicable to all non-federal entities other than states, in order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. FEMA considers these actions to be an organizational conflict of interest and interprets this restriction as applying to contractors that help a non-federal entity develop its grant application, project plans, or project budget. This prohibition also applies to the use of former employees to manage the grant or carry out a contract when those former employees worked on such activities while they were employees of the non-federal entity.

Under this prohibition, unless the non-federal entity solicits for and awards a contract covering both development and execution of specifications (or similar elements as described above), and this contract was procured in compliance with 2 C.F.R. §§ 200.317 – 200.327, federal funds cannot be used to pay a contractor to carry out the work if that contractor also worked on the development of those specifications. This rule applies to all contracts funded with federal grant funds, including pre-award costs, such as grant writer fees, as well as post-award costs, such as grant management fees.

Additionally, some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable requirements on firms for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- Any arbitrary action in the procurement process.

Per 2 C.F.R. § 200.319(c), non-federal entities other than states must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed SLTT geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Under 2 C.F.R. § 200.318(c)(1), non-federal entities other than states are required to maintain written standards of conduct covering conflicts of interest and governing the actions of their employees engaged in the selection, award, and administration of contracts. **No employee, officer, or agent may participate in the selection, award, or administration of a contract**

**supported by a federal award if he or she has a real or apparent conflict of interest.** Such conflicts of interest would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the non-federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-federal entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-federal entity. If the recipient or subrecipient (other than states) has a parent, affiliate, or subsidiary organization that is not a state, local, tribal, or territorial government, the non-federal entity must also maintain written standards of conduct covering organizational conflicts of interest. In this context, organizational conflict of interest means that because of a relationship with a parent company, affiliate, or subsidiary organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. The non-federal entity must disclose in writing any potential conflicts of interest to FEMA or the pass-through entity in accordance with applicable FEMA policy.

**c. *Supply Schedules and Purchasing Programs***

Generally, a non-federal entity may seek to procure goods or services from a federal supply schedule, state supply schedule, or group purchasing agreement.

**I. GENERAL SERVICES ADMINISTRATION SCHEDULES**

States, tribes, and local governments, and any instrumentality thereof (such as local education agencies or institutions of higher education) may procure goods and services from a General Services Administration (GSA) schedule. GSA offers multiple efficient and effective procurement programs for state, tribal, and local governments, and instrumentalities thereof, to purchase products and services directly from pre-vetted contractors. The GSA Schedules (also referred to as the Multiple Award Schedules and the Federal Supply Schedules) are long-term government-wide contracts with commercial firms that provide access to millions of commercial products and services at volume discount pricing.

Information about GSA programs for states, tribes, and local governments, and instrumentalities thereof, can be found at <https://www.gsa.gov/resources-for/programs-for-State-and-local-governments> and <https://www.gsa.gov/buying-selling/purchasing-programs/gsa-schedules/schedule-buyers/state-and-local-governments>.

For tribes, local governments, and their instrumentalities that purchase off of a GSA schedule, this will satisfy the federal requirements for full and open competition provided that the recipient follows the GSA ordering procedures; however, tribes, local governments, and their instrumentalities will still need to follow the other rules under 2 C.F.R. §§ 200.317 – 200.327, such as solicitation of minority businesses, women’s business enterprises, small businesses, or labor surplus area firms (§ 200.321), domestic preferences (§ 200.322),

contract cost and price (§ 200.324), and required contract provisions (§ 200.327 and Appendix II).

## **II. OTHER SUPPLY SCHEDULES AND PROGRAMS**

For non-federal entities other than states, such as tribes, local governments, and nonprofits, that want to procure goods or services from a state supply schedule, cooperative purchasing program, or other similar program, in order for such procurements to be permissible under federal requirements, the following must be true:

- The procurement of the original contract or purchasing schedule and its use by the non-federal entity complies with state and local law, regulations, and written procurement procedures;
- The state or other entity that originally procured the original contract or purchasing schedule entered into the contract or schedule with the express purpose of making it available to the non-federal entity and other similar types of entities;
- The contract or purchasing schedule specifically allows for such use, and the work to be performed for the non-federal entity falls within the scope of work under the contract as to type, amount, and geography;
- The procurement of the original contract or purchasing schedule complied with all the procurement standards applicable to a non-federal entity other than states under at 2 C.F.R. §§ 200.317 – 200.327; and
- With respect to the use of a purchasing schedule, the non-federal entity must follow ordering procedures that adhere to applicable state, tribal, and local laws and regulations and the minimum requirements of full and open competition under 2 C.F.R. Part 200.

If a non-federal entity other than a state seeks to use a state supply schedule, cooperative purchasing program, or other similar type of arrangement, FEMA recommends the recipient discuss the procurement plans with [CRCL.CMPP@hq.dhs.gov](mailto:CRCL.CMPP@hq.dhs.gov).

### **d. *Procurement Documentation***

Per 2 C.F.R. § 200.318(i), non-federal entities other than states and territories are required to maintain and retain records sufficient to detail the history of procurement covering at least the rationale for the procurement method, contract type, contractor selection or rejection, and the basis for the contract price. States and territories are encouraged to maintain and retain this information as well and are reminded that in order for any cost to be allowable, it must be adequately documented per 2 C.F.R. § 200.403(g).

Examples of the types of documents that would cover this information include but are not limited to:

- Solicitation documentation, such as requests for quotes, invitations for bids, or requests for proposals;
- Responses to solicitations, such as quotes, bids, or proposals;
- Pre-solicitation independent cost estimates and post-solicitation cost/price analyses on file for review by federal personnel, if applicable;
- Contract documents and amendments, including required contract provisions; and

- Other documents required by federal regulations applicable at the time a grant is awarded to a recipient.

## 6. Record Retention

### a. *Record Retention Period*

Financial records, supporting documents, statistical records, and all other non-federal entity records pertinent to a federal award generally must be maintained for at least three years from the date the final FFR is submitted. *See 2 C.F.R. § 200.334.* Further, if the recipient does not submit a final FFR and the award is administratively closed, FEMA uses the date of administrative closeout as the start of the general record retention period.

The record retention period **may be longer than three years or have a different start date** in certain cases. These include:

- Records for real property and equipment acquired with federal funds must be retained for **three years after final disposition of the property.** *See 2 C.F.R. § 200.334(c).*
- If any litigation, claim, or audit is started before the expiration of the three-year period, the records **must be retained until** all litigation, claims, or audit findings involving the records **have been resolved and final action taken.** *See 2 C.F.R. § 200.334(a).*
- The **record retention period will be extended if the recipient is notified in writing** of the extension by FEMA, the cognizant or oversight agency for audit, or the cognizant agency for indirect costs. *See 2 C.F.R. § 200.334(b).*
- Where FEMA requires recipients to report program income after the period of performance ends, the **program income record retention period begins at the end of the recipient's fiscal year in which program income is earned.** *See 2 C.F.R. § 200.334(e).*
- For indirect cost rate proposals, cost allocation plans, or other rate computations records, the start of the record retention period depends on whether the indirect cost rate documents were submitted for negotiation. If the **indirect cost rate documents were submitted for negotiation, the record retention period begins from the date those documents were submitted** for negotiation. If indirect cost rate documents **were not submitted for negotiation, the record retention period begins at the end of the recipient's fiscal year or other accounting period covered by that indirect cost rate.** *See 2 C.F.R. § 200.334(f).*

### b. *Types of Records to Retain*

FEMA requires that non-federal entities maintain the following documentation for federally funded purchases:

- Specifications
- Solicitations
- Competitive quotes or proposals
- Basis for selection decisions
- Purchase orders
- Contracts
- Invoices
- Cancelled checks

Non-federal entities should keep detailed records of all transactions involving the grant. FEMA may at any time request copies of any relevant documentation and records, including purchasing documentation along with copies of cancelled checks for verification. *See, e.g.*, 2 C.F.R. §§ 200.318(i), 200.334, 200.337.

In order for any cost to be allowable, it must be adequately documented per 2 C.F.R. § 200.403(g). Non-federal entities who fail to fully document all purchases may find their expenditures questioned and subsequently disallowed.

## **7. Actions to Address Noncompliance**

Non-federal entities receiving financial assistance funding from FEMA are required to comply with requirements in the terms and conditions of their awards or subawards, including the terms set forth in applicable federal statutes, regulations, NOFOs, and policies. Throughout the award lifecycle or even after an award has been closed, FEMA or the pass-through entity may discover potential or actual noncompliance on the part of a recipient or subrecipient. This potential or actual noncompliance may be discovered through routine monitoring, audits, closeout, or reporting from various sources.

In the case of any potential or actual noncompliance, FEMA may place special conditions on an award per 2 C.F.R. §§ 200.208 and 200.339, FEMA may place a hold on funds until the matter is corrected, or additional information is provided per 2 C.F.R. § 200.339, or it may do both. Similar remedies for noncompliance with certain federal civil rights laws are authorized pursuant to 44 C.F.R. Parts 7 and 19.

In the event the noncompliance is not able to be corrected by imposing additional conditions or the recipient or subrecipient refuses to correct the matter, FEMA might take other remedies allowed under 2 C.F.R. § 200.339. These remedies include actions to disallow costs, recover funds, wholly or partly suspend or terminate the award, initiate suspension and debarment proceedings, withhold further federal awards, or take other remedies that may be legally available. For further information on termination due to noncompliance, see the section on Termination Provisions in the NOFO.

FEMA may discover and take action on noncompliance even after an award has been closed. The closeout of an award does not affect FEMA's right to disallow costs and recover funds as long the action to disallow costs takes place during the record retention period. *See* 2 C.F.R. §§ 200.334, 200.345(a). Closeout also does not affect the obligation of the non-federal entity to return any funds due as a result of later refunds, corrections, or other transactions. 2 C.F.R. § 200.345(a)(2).

The types of funds FEMA might attempt to recover include, but are not limited to, improper payments, cost share reimbursements, program income, interest earned on advance payments, or equipment disposition amounts.

FEMA may seek to recover disallowed costs through a Notice of Potential Debt Letter, a Remedy Notification, or other letter. The document will describe the potential amount owed, the reason why FEMA is recovering the funds, the recipient's appeal rights, how the amount can be paid, and the consequences for not appealing or paying the amount by the deadline.

If the recipient neither appeals nor pays the amount by the deadline, the amount owed will become final. Potential consequences if the debt is not paid in full or otherwise resolved by the deadline include the assessment of interest, administrative fees, and penalty charges; administratively offsetting the debt against other payable federal funds; and transferring the debt to the U.S. Department of the Treasury for collection.

FEMA notes the following common areas of noncompliance for FEMA's grant programs:

- Insufficient documentation and lack of record retention.
- Failure to follow the procurement under grants requirements.
- Failure to submit closeout documents in a timely manner.
- Failure to follow EHP requirements.
- Failure to comply with the POP deadline.

## 8. Audits

FEMA grant recipients are subject to audit oversight from multiple entities including the DHS OIG, the GAO, the pass-through entity, or independent auditing firms for single audits, and may cover activities and costs incurred under the award. Auditing agencies such as the DHS OIG, the GAO, and the pass-through entity (if applicable), and FEMA in its oversight capacity, must have access to records pertaining to the FEMA award. Recipients and subrecipients must retain award documents for at least three years from the date the final FFR is submitted, and even longer in many cases subject to the requirements of 2 C.F.R. § 200.334. In the case of administrative closeout, documents must be retained for at least three years from the date of closeout, or longer subject to the requirements of 2 C.F.R. § 200.334. If documents are retained longer than the required retention period, the DHS OIG, the GAO, and the pass-through entity, as well as FEMA in its oversight capacity, have the right to access these records as well. *See* 2 C.F.R. §§ 200.334, 200.337.

Additionally, non-federal entities must comply with the single audit requirements at 2 C.F.R. Part 200, Subpart F. Specifically, non-federal entities, other than for-profit subrecipients, that expend \$750,000 or more in federal awards during their fiscal year must have a single or program-specific audit conducted for that year in accordance with Subpart F. 2 C.F.R. § 200.501. A single audit covers all federal funds expended during a fiscal year, not just FEMA funds. The cost of audit services may be allowable per 2 C.F.R. § 200.425, but non-federal entities must select auditors in accordance with 2 C.F.R. § 200.509, including following the proper procurement procedures. For additional information on single audit reporting requirements, see section F of this NOFO under the header "Single Audit Report" within the subsection "Additional Reporting Requirements" or other applicable document.

The objectives of single audits are to:

- Determine if financial statements conform to generally accepted accounting principles (GAAP);

- Determine whether the schedule of expenditures of federal awards is presented fairly;
- Understand, assess, and test the adequacy of internal controls for compliance with major programs; and
- Determine if the entity complied with applicable laws, regulations, and contracts or grants.

For single audits, the auditee is required to prepare financial statements reflecting its financial position, a schedule of federal award expenditures, and a summary of the status of prior audit findings and questioned costs. The auditee also is required to follow up and take appropriate corrective actions on new and previously issued but not yet addressed audit findings. The auditee must prepare a corrective action plan to address the new audit findings. 2 C.F.R. §§ 200.508, 200.510, 200.511.

Non-federal entities must have an audit conducted, either single or program-specific, of their financial statements and federal expenditures annually or biennially pursuant to 2 C.F.R. § 200.504. Non-federal entities must also follow the information submission requirements of 2 C.F.R. § 200.512, including submitting the audit information to the [Federal Audit Clearinghouse](#) within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The audit information to be submitted include the data collection form described at 2 C.F.R. § 200.512(c) and Appendix X to 2 C.F.R. Part 200 as well as the reporting package described at 2 C.F.R. § 200.512(b).

The non-federal entity must retain one copy of the data collection form and one copy of the reporting package for three years from the date of submission to the Federal Audit Clearinghouse. 2 C.F.R. § 200.512; *see also* 2 C.F.R. § 200.517 (setting requirements for retention of documents by the auditor and access to audit records in the auditor's possession).

FEMA, the DHS OIG, the GAO, and the pass-through entity (if applicable), as part of monitoring or as part of an audit, may review a non-federal entity's compliance with the single audit requirements. In cases of continued inability or unwillingness to have an audit conducted in compliance with 2 C.F.R. Part 200, Subpart F, FEMA, and the pass-through entity, if applicable, are required to take appropriate remedial action under 2 C.F.R. § 200.339 for noncompliance, pursuant to 2 C.F.R. § 200.505.

## **9. Payment Information**

FEMA uses the Direct Deposit/Electronic Funds Transfer (DD/EFT) method of payment to recipients. To enroll in the DD/EFT, the recipient must complete SF-1199A, Direct Deposit Form.

FEMA utilizes the Payment and Reporting System (PARS) for financial reporting, invoicing, and tracking payments. For additional information, refer to <https://isource.fema.gov/sf269/execute/LogIn?sawContentMessage=true>.

## **10. Whole Community Preparedness**

Preparedness is a shared responsibility that calls for the involvement of everyone—not just the government—in preparedness efforts. By working together, everyone can help keep the

nation safe from harm and help keep it resilient when struck by hazards, such as natural disasters, acts of terrorism, and pandemics.

Whole Community includes:

- Individuals and families, including those with access and functional needs
- Businesses
- Faith-based and community organizations
- Nonprofit groups
- Schools and academia
- Media outlets
- All levels of government, including state, local, tribal, territorial, and federal partners

The phrase “Whole Community” often appears in preparedness materials, as it is one of the guiding principles. It means two things:

1. Involving people in the development of national preparedness documents.
2. Ensuring their roles and responsibilities are reflected in the content of the materials

# Exhibit B

**Award Letter**



U.S. Department of Homeland Security  
Washington, D.C. 20472

Lauren Rymer  
Church World Service, Inc.  
475 Riverside Drive, Suite 700  
New York, NY 10115 - 0073

Re: Grant No. EMW-2022-CM-00005

Dear Lauren Rymer:

Congratulations, on behalf of the Department of Homeland Security, your application for financial assistance submitted under the Fiscal Year (FY) 2022 Case Management Pilot Program has been approved in the amount of \$5,000,000.00. You are not required to match this award with any amount of non-Federal funds.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Agreement Articles (attached to this Award Letter)
- Obligating Document (attached to this Award Letter)
- FY 2022 Case Management Pilot Program Notice of Funding Opportunity.

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

In order to establish acceptance of the award and its terms, please follow these instructions:

Step 1: Please log in to the ND Grants system at <https://portal.fema.gov>.

Step 2: After logging in, you will see the Home page with a Pending Tasks menu. Click on the Pending Tasks menu, select the Application sub-menu, and then click the link for "Award Offer Review" tasks. This link will navigate you to Award Packages that are pending review.

Step 3: Click the Review Award Package icon (wrench) to review the Award Package and accept or decline the award. Please save or print the Award Package for your records.

**System for Award Management (SAM):** Grant recipients are to keep all of their information up to date in SAM, in particular, your organization's name, address, Unique Entity Identifier (UEI) number, EIN and banking information. Please ensure that the UEI number used in SAM is the same one used to apply for all FEMA awards. Future payments will be contingent on the information provided in the SAM; therefore, it is imperative that the information is correct. The System for Award Management is located at <http://www.sam.gov>.

If you have any questions or have updated your information in SAM, please let your Grants Management Specialist (GMS) know as soon as possible. This will help us to make the necessary updates and avoid any interruptions in the payment process.



Pamela S. Williams  
Assistant Administrator  
Grant Programs Directorate

PAMELA SUSAN WILLIAMS

**Agreement Articles**

Thu Sep 01 00:00:00 GMT 2022



U.S. Department of Homeland Security  
Washington, D.C. 20472

**AGREEMENT ARTICLES**  
**Case Management Pilot Program**

**GRANTEE:** Church World Service, Inc.  
**PROGRAM:** Case Management Pilot Program  
**AGREEMENT NUMBER:** EMW-2022-CM-00005-S01

**TABLE OF CONTENTS**

Article I	Assurances, Administrative Requirements, Cost Principles, Representations and Certifications
Article II	General Acknowledgements and Assurances
Article III	Acknowledgement of Federal Funding from DHS
Article IV	Activities Conducted Abroad
Article V	Age Discrimination Act of 1975
Article VI	Americans with Disabilities Act of 1990
Article VII	Best Practices for Collection and Use of Personally Identifiable Information
Article VIII	Civil Rights Act of 1964 - Title VI
Article IX	Civil Rights Act of 1968
Article X	Copyright
Article XI	Debarment and Suspension
Article XII	Drug-Free Workplace Regulations
Article XIII	Duplication of Benefits

Article XIV

Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX

Article XV

Energy Policy and Conservation Act

Article XVI

False Claims Act and Program Fraud Civil Remedies

Article XVII

Federal Debt Status

Article XVIII

Federal Leadership on Reducing Text Messaging while Driving

Article XIX

Fly America Act of 1974

Article XX

Hotel and Motel Fire Safety Act of 1990

Article XXI

John S. McCain National Defense Authorization Act of Fiscal Year 2019

Article XXII

Limited English Proficiency (Civil Rights Act of 1964 - Title VI)

Article XXIII

Lobbying Prohibitions

Article XXIV

National Environmental Policy Act

Article XXV

Nondiscrimination in Matters Pertaining to Faith-Based Organizations

Article XXVI

Non-Supplanting Requirement

Article XXVII

Notice of Funding Opportunity Requirements

Article XXVIII

Patents and Intellectual Property Rights

Article XXIX

Procurement of Recovered Materials

Article XXX

Rehabilitation Act of 1973

Article XXXI

Reporting of Matters Related to Recipient Integrity and Performance

Article XXXII

Reporting Subawards and Executive Compensation

Article XXXIII

Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Article XXXIV

SAFECOM

Article XXXV

Terrorist Financing

Article XXXVI	Trafficking Victims Protection Act of 2000 (TVPA)
Article XXXVII	Universal Identifier and System of Award Management
Article XXXVIII	USA PATRIOT Act of 2001
Article XXXIX	Use of DHS Seal, Logo and Flags
Article XL	Whistleblower Protection Act
Article XLI	Environmental Planning and Historic Preservation (EHP) Review
Article XLII	Applicability of DHS Standard Terms and Conditions to Tribes
Article XLIII	Acceptance of Post Award Changes
Article XLIV	Disposition of Equipment Acquired Under the Federal Award
Article XLV	Prior Approval for Modification of Approved Budget
Article XLVI	Indirect Cost Rate
Article XLVII	DHS Standard Terms and Conditions Generally
Article XLVIII	Award Performance Goals

#### **Article I - Assurances, Administrative Requirements, Cost Principles, Representations and Certifications**

- I. DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances - Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.
- II. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002.
- III. By accepting this agreement, recipients, and their executives, as defined in 2 C.F.R. section 170.315, certify that their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

#### **Article II - General Acknowledgements and Assurances**

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

- I. Recipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS.
- II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel.

III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

V. Recipients (as defined in 2 C.F.R. Part 200 and including recipients acting as pass-through entities) of federal financial assistance from DHS or one of its awarding component agencies must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award for the first award under which this term applies. Recipients of multiple awards of DHS financial assistance should only submit one completed tool for their organization, not per award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.

The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

### **Article III - Acknowledgement of Federal Funding from DHS**

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

### **Article IV - Activities Conducted Abroad**

Recipients must ensure that project activities performed outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

### **Article V - Age Discrimination Act of 1975**

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

### **Article VI - Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101 - 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

### **Article VII - Best Practices for Collection and Use of Personally Identifiable Information**

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

### **Article VIII - Civil Rights Act of 1964 - Title VI**

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

### **Article IX - Civil Rights Act of 1968**

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units - i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators) - be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

#### **Article X - Copyright**

Recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

#### **Article XI - Debarment and Suspension**

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

#### **Article XII - Drug-Free Workplace Regulations**

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106).

#### **Article XIII - Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

#### **Article XIV - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX**

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

#### **Article XV - Energy Policy and Conservation Act**

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. section 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

#### **Article XVI - False Claims Act and Program Fraud Civil Remedies**

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729- 3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

#### **Article XVII - Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

#### **Article XVIII - Federal Leadership on Reducing Text Messaging while Driving**

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the Federal Government.

#### **Article XIX - Fly America Act of 1974**

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C.) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

#### **Article XX - Hotel and Motel Fire Safety Act of 1990**

Recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a.

#### **Article XXI - John S. McCain National Defense Authorization Act of Fiscal Year 2019**

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. sections 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute - as it applies to DHS recipients, subrecipients, and their contractors and subcontractors - prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

#### **Article XXII - Limited English Proficiency (Civil Rights Act of 1964 - Title VI)**

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

#### **Article XXIII - Lobbying Prohibitions**

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

#### **Article XXIV - National Environmental Policy Act**

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

#### **Article XXV - Nondiscrimination in Matters Pertaining to Faith-Based Organizations**

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

#### **Article XXVI - Non-Supplanting Requirement**

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

## **Article XXVII - Notice of Funding Opportunity Requirements**

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

## **Article XXVIII - Patents and Intellectual Property Rights**

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. section 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14.

## **Article XXIX - Procurement of Recovered Materials**

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. section 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

## **Article XXX - Rehabilitation Act of 1973**

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973) (codified as amended at 29 U.S.C. section 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

## **Article XXXI - Reporting of Matters Related to Recipient Integrity and Performance**

General Reporting Requirements:

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

## **Article XXXII - Reporting Subawards and Executive Compensation**

Reporting of first tier subawards:

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

## **Article XXXIII - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials**

Recipients and subrecipients must comply with the Build America, Buy America Act (BABAA), which was enacted as part of the Infrastructure Investment and Jobs Act Sections 70901-70927, Pub. L. No. 117-58 (2021); and Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers. See also Office of Management and Budget (OMB), Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.

Recipients and subrecipients of federal financial assistance programs for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

(1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) all manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(3) all construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

#### ***Waivers***

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements.

(a) When the federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- (1) applying the domestic content procurement preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the OMB Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described. For awards by the Federal Emergency Management Agency (FEMA), existing waivers are available and the waiver process is described at ["Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov](#). For awards by other DHS components, please contact the applicable DHS FAO.

To see whether a particular DHS federal financial assistance program is considered an infrastructure program and thus required to include a Buy America preference, please either contact the applicable DHS FAO, or for FEMA awards, please see [Programs and Definitions: Build America, Buy America Act | FEMA.gov](#).

#### **Article XXXIV - SAFECOM**

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

#### **Article XXXV - Terrorist Financing**

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

#### **Article XXXVI - Trafficking Victims Protection Act of 2000 (TVPA)**

Trafficking in Persons:

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106 (g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference.

#### **Article XXXVII - Universal Identifier and System of Award Management**

Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

#### **Article XXXVIII - USA PATRIOT Act of 2001**

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. sections 175-175c.

#### **Article XXXIX - Use of DHS Seal, Logo and Flags**

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

#### **Article XL - Whistleblower Protection Act**

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409, 41 U.S.C. section 4712, and 10 U.S.C. section 2324, 41 U.S.C. sections 4304 and 4310.

#### **Article XLI - Environmental Planning and Historic Preservation (EHP) Review**

DHS/FEMA funded activities that may require an Environmental Planning and Historic Preservation (EHP) review are subject to the FEMA EHP review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires the recipient to comply with all federal, state, and local laws.

DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and executive orders. In order to initiate EHP review of your project(s), you must submit a detailed project description along with supporting documentation. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive orders, regulations, and policies.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered the applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

#### **Article XLII - Applicability of DHS Standard Terms and Conditions to Tribes**

The DHS Standard Terms and Conditions are a restatement of general requirements imposed upon recipients and flow down to subrecipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.

#### **Article XLIII - Acceptance of Post Award Changes**

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov if you have any questions.

#### **Article XLIV - Disposition of Equipment Acquired Under the Federal Award**

For purposes of original or replacement equipment acquired under this award by a non-state recipient or non-state subrecipients, when that equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition

of the equipment pursuant to 2 C.F.R. section 200.313. State recipients and state subrecipients must follow the disposition requirements in accordance with state laws and procedures.

#### **Article XLV - Prior Approval for Modification of Approved Budget**

Before making any change to the FEMA approved budget for this award, you must request prior written approval from FEMA where required by 2 C.F.R. section 200.308.

For purposes of non-construction projects, FEMA is utilizing its discretion to impose an additional restriction under 2 C.F.R. section 200.308(f) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget FEMA last approved.

For purposes of awards that support both construction and non-construction work, FEMA is utilizing its discretion under 2 C.F.R. section 200.308(h)(5) to require the recipient to obtain prior written approval from FEMA before making any fund or budget transfers between the two types of work.

You must report any deviations from your FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

#### **Article XLVI - Indirect Cost Rate**

2 C.F.R. section 200.211(b)(15) requires the terms of the award to include the indirect cost rate for the federal award. If applicable, the indirect cost rate for this award is stated in the budget documents or other materials approved by FEMA and included in the award file.

#### **Article XLVII - DHS Standard Terms and Conditions Generally**

The Fiscal Year (FY) 2022 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2022. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

All legislation and digital resources are referenced with no digital links. The FY 2022 DHS Standard Terms and Conditions will be housed on dhs.gov at [www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions](http://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions).

#### **Article XLVIII - Award Performance Goals**

FEMA will measure the recipient's performance of the grant by receipt and review of quarterly and final performance reports described in the Notice of Funding Opportunity for the Case Management Pilot Program grant made available under Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260. The submission of the data elements within these reports will reflect the recipient's accomplishments of the program's performance goals when awarding funding to local governments and/or eligible nonprofits to provide voluntary case management and other services to non-detained noncitizens in immigration removal proceedings including those enrolled in U.S. Immigration and Customs Enforcement Alternatives to Detention program.

#### **BUDGET COST CATEGORIES**

Personnel	\$232,858.00
Fringe Benefits	\$90,698.00
Travel	\$8,732.00
Equipment	\$3,000.00
Supplies	\$64,712.00

Contractual	\$4,525,000.00
Construction	\$0.00
Indirect Charges	\$0.00
Other	\$75,000.00

## Obligating Document for Award/Amendment

b. To describe changes other than funding data or financial changes, attach schedule and check here.

N/A

16 a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)

Case Management Pilot Program recipients are not required to sign and return copies of this document. However, recipients should print and keep a copy of this document for their records.

16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN

This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) Lauren Rymer,	DATE Wed Sep 07 17:34:12 GMT 2022
18. FEMA SIGNATORY OFFICIAL (Name and Title)  Pamela S. Williams Assistant Administrator Grant Programs Directorate	DATE Wed Aug 31 21:33:58 GMT 2022

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

STATE OF TEXAS,

Plaintiff,

v.

**MERRICK GARLAND**, in his official capacity as  
Attorney General, *et al.*,

Defendants.

Case No. 5:23-cv-00034-H

**DECLARATION OF PETER MINA**

I, Peter Mina, pursuant to 28 U.S.C. § 1746 and based upon my personal knowledge, and documents and information made known or available to me from official records and reasonably relied upon in the course of my employment, hereby declare as follows:

1. I am the Deputy Officer for Programs & Compliance at the Office for Civil Rights and Civil Liberties (“CRCL”) for the U.S. Department of Homeland Security (“DHS” or “the Department”). I have been employed by CRCL in this position since 2019. I previously served as Chief of the Labor and Employment Law Division (“LELD”) in the Office of the Principal Legal Advisor for U.S. Immigration and Customs Enforcement (“ICE”) since February 2013.

2. I am familiar with the development of the Alternatives to Detention Case Management Pilot Program (“CMPP”), the administration of the program, and its current status. CMPP was created in 2021 to provide voluntary case management and other services to non-detained noncitizens enrolled in ICE’s Alternatives to Detention (“ATD”) program. CMPP is managed by a National Board and chaired by the Officer for Civil Rights and Civil Liberties. The National Board is responsible for awarding funds to eligible local governments and nonprofit organizations to provide case management services. It is comprised of nonprofits with experience providing and evaluating case management programs for immigrants, asylees, and refugees.

### **Case Management Pilot Program**

3. As part of the 2021 Consolidated Appropriations Act (the “2021 Appropriations Act”), Pub. L. No. 116-260, 134 Stat. 1182, 1449 (2020), Congress directed DHS to create CMPP and appropriated \$5 million in funding for the program. Under CMPP, grants are awarded to selected nonprofit organizations and local governments to provide voluntary case management services to noncitizens enrolled in ICE’s ATD program.

4. Under the 2021 Appropriations Act, the funds appropriated for CMPP are transferred to the Federal Emergency Management Agency (“FEMA”), but must be administered by the National Board. The National Board is composed of three nonprofit organizations – Church World Service, Catholic Charities USA, and Center for Migration Studies – and DHS’s Officer for Civil Rights and Civil Liberties, who is the chair of the National Board. From January 2022 through April 2023, I served as Senior Official Performing the Duties of the Officer for Civil Rights and Civil Liberties and as Chair of CMPP National Board.

5. Prior to awarding CMPP funds, FEMA issues a Notice of Funding Opportunity (“NOFO”) to which the National Board has 30 days to apply. Consistent with requirements of the 2021 Consolidated Appropriations Act that the National Board administer and award CMPP funds to subrecipients, *see* 134 Stat. at 1449, only the National Board is eligible to apply for the funds described in the NOFO.

6. Once the National Board is awarded CMPP funds from FEMA, the National Board posts a solicitation inviting subrecipients to apply. Potential subrecipients consist of nonprofit organizations and local governments. Subrecipient applicants must identify the geographic area where they will provide services in their application, and, if selected, the subrecipient must perform its services within that identified geographic area.

7. Upon receiving applications from potential subrecipients in response to its solicitation, the National Board considers the applications, votes on the nonprofit organizations or local governments to receive funding and the amount of the funding, and disburses the funding to the selected subrecipients. The funding to selected subrecipients is called a subgrant. Each Board member has one equal vote, and the designees for the three nonprofit organizations on the Board exercise their independent judgment when casting their votes. Decisions are made by majority vote. Therefore, if the three nonprofit organizations on the Board vote to award a subgrant to a certain subrecipient, the award will be made to that subrecipient.

8. The National Board's subgrant awards to subrecipients do not automatically renew, but instead must be applied for and awarded following each NOFO and the National Board's subsequent solicitation of applications. This affords different nonprofit organizations and local governments the opportunity to be considered for the program each time new CMPP funding issues. The National Board assesses each application on its merits.

9. The NOFO for the fiscal year 2021 CMPP funds was issued by FEMA on June 28, 2022. In July 2022, the National Board applied for the \$5 million allocated to CMPP for fiscal year 2021 and, on September 1, 2022, received the \$5 million grant. Thereafter, the National Board invited nonprofit organizations and local governments to apply for that 2021 grant money through a solicitation that posted on September 19, 2022. Exh. A. Applications were due October 19, 2022.

10. On November 30, 2022, the National Board selected BakerRipley, a nonprofit organization in Houston, Texas, to receive a subgrant of more than \$2 million of the funds allocated to CMPP for the fiscal year 2021. *See* Exh. B. Additionally, on the same date, the National Board also selected the International Rescue Committee New York ("IRC"), a nonprofit organization in New York, New York, to receive a subgrant of more than \$2 million. *See* Exh. C. As set forth above in paragraph 7, neither the subgrant to BakerRipley nor the subgrant to IRC will be

automatically renewed. Also, the fact that nonprofit organizations in Texas and New York received funds from the 2021 Appropriations Act does not mean that nonprofit organizations in those states will necessarily receive subgrants in the future.

11. Any individual enrolled in ATD is eligible to participate in CMPP. ICE provides the names of eligible participants to CRCL via an encrypted process solely for the purpose of the participants' enrollment in CMPP. CRCL randomizes the names and protects personal identifiable information before sending this information to the subrecipient program. Using the information CRCL provided, BakerRipley began contacting potential CMPP participants in April 2023, and IRC plans to do the same in May 2023.

12. Congress appropriated an additional \$15 million for CMPP in the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 49, 312 (2022), and an additional \$20 million for CMPP in the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459, 4726 (2022). The National Board has not solicited applications for grants or awarded any grants of the money allocated to CMPP under the Consolidated Appropriations Act, 2022, or the Consolidated Appropriations Act, 2023.

13. CMPP provides needed case management services to noncitizens who qualify for participation in the program, including, but not limited to, trafficking screening, legal and cultural orientation, referrals to social services, mental health services, and for individuals who will be removed, reintegration services.

Under penalty of perjury, pursuant to 28 U.S.C. § 1746, I declare the foregoing is true and correct to the best of my knowledge and belief.

Dated the 3rd day of May 2023



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Peter Mina  
Deputy Officer for Programs &  
Compliance  
Office for Civil Rights and Civil Liberties  
2707 Martin Luther King, Jr. Avenue, SE  
Washington, D.C. 20528

# Exhibit A

**CMPP National Board**  
**Case Management Pilot Program (CMPP)**  
**Subrecipient Solicitation**

**Issued By:** Case Management Pilot Program National Board

**CFDA Number:** 97.102

**Funding Opportunity Title:** Calendar Year 2022 Case Management Pilot Program (CMPP)

**Funding Opportunity Number:** DHS-22-GPD-102-00-01

**Deadline for Applications:** October 19, 2022

**Authorizing Authority for Program** Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260

**Appropriation Authority for Program** Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260

**Total Amount Available:** \$5 million

**Projected Period of Performance Start Date(s):** As soon as possible 2022

**Projected Period of Performance End Date(s):** August 31, 2024

**Number of awards anticipated:** 2 or more awards

**Individual Award amount:** \$2,262,000 per award, with \$4,400,000 max

**Funding Instrument Type:** Subaward, Cooperative Agreement

**Cost Share or Match:** None

## A. PROGRAM DESCRIPTION

The Case Management Pilot Program (CMPP) shall make available case management and associated services to non-detained non-U.S. citizens (hereinafter noncitizens) in immigration removal proceedings, including those enrolled in U.S. Immigration and Customs Enforcement (ICE) Alternatives to Detention (ATD), in specific geographic locations served by the CMPP. CMPP Board, and CWS as a Secretariat, will provide subawards to service providers (individually or within a consortium, with a strong preference for consortium applications) to provide case management services including but not limited to: mental health screening; human trafficking screening; legal orientation; cultural orientation; flexible funds assistance; connections to community social services which include job training, school enrollment support, mental health and psychosocial support (MHPSS); and for individuals who have been determined to be removable from the US, CMPP will assist with supportive departure planning and information and/or referral to reintegration services (if and where available). It is anticipated that CMPP awardees will provide connection, referral and/or enrollment support to a range of services identified as a priority to the participants which may or could include access to counsel, affordable housing, childcare, transportation, healthcare, schooling, language classes, and cultural orientation programs.

Through subawards under this solicitation, the recipient(s) would make available case management and other services as described above.

Subaward agreements, which will include the substantial involvement of CMPP National Board via fiduciary agent Church World Service, Inc., will be for up to \$2,262,000 U.S. Dollars (USD) in Calendar Years 2022-2024. Case Management Pilot Program (CMPP) will be sub-awarded to entities preferably working within a consortium, and for work that is within targeted communities with high rates of asylum seekers within continental U.S. with demonstrated need within their community for implementation of the priorities and objectives listed above.

**Contact Person(s):** For questions on this solicitation email [info@cmpp.org](mailto:info@cmpp.org)

### **Background and Program Goals:**

The CMPP's goals are to ensure that noncitizens who are engaged in immigration removal proceedings in the U.S. have access to voluntary, supportive comprehensive case management services and are provided referrals for critical services such as mental health screening, human trafficking screening, legal orientation programs, cultural orientation programs, and that for participants who will be removed have access to information and reintegration services (if and where available), and other social services that CMPP participants may identify as a priority.

The CMPP also provides an opportunity for the Department of Homeland Security (DHS) to evaluate the effectiveness of voluntary case management services for noncitizens in immigration removal proceedings, in a program that is overseen and managed through a National Board, which is chaired by the DHS Officer for Civil Rights and Civil Liberties and comprises nongovernmental organizations with experience providing and/or evaluating case management programs for immigrants and asylum seekers.

In addition, the CMPP provides an opportunity for DHS to assess the demand for CMPP services and for nonprofit and/or local government capacity to provide and/or connect voluntary participants to effective services. DHS plans to evaluate effectiveness by looking at what, if any, impact CMPP services have on participants' attendance at immigration court hearings, compliance with immigration obligations and orders, ability to secure legal representation, and ability to access a range of social services that CMPP participants identify as priorities through an individual participatory service planning process.

The CMPP National Board, chaired by the Officer for Civil Rights and Civil Liberties (CRCL), will distribute funds via subaward/s to eligible local governments and nonprofits (hereinafter, subrecipients) and manage the National program.

## 1. Program Objectives:

- to serve up to at least 700 individuals within the CMPP program
- to ensure that noncitizens engaged in immigration removal proceedings have voluntary access to case management services
- to ensure that noncitizens engaged in immigration removal proceedings have access to critical services such as mental health screening, human trafficking screening, legal orientation programs, and cultural orientation programs
- to ensure that noncitizens engaged in immigration removal proceedings who will be removed, have access to supportive departure planning and reintegration services, where available
- to ensure that noncitizens engaged in immigration removal proceedings have access to other critical supportive services that they identify as a priority
- to provide an opportunity to demonstrate and evaluate the effectiveness of voluntary case management services for immigrants in removal proceedings
- to assess the demand for CMPP services by noncitizens in immigration removal proceedings
- to demonstrate nonprofit and/or local government capacity to provide and/or connect participants to effective services
- to evaluate the effectiveness of providing CMPP services to noncitizens in immigration removal proceedings on participants' attendance at immigration court hearings, compliance with immigration obligations and orders, health, and wellbeing

- to evaluate the effectiveness of CMPP to provide referral and facilitate connection to legal representation
- to evaluate the effectiveness of CMPP to provide access to a range of social services through a client-led, service planning process
- to evaluate the effectiveness of CMPP services.

## 2. CMPP Activities must include the following, at minimum:

1. Intake
2. Individual assessment
3. Individual service planning
4. Individual goal setting
5. Screenings (mental health, trafficking, legal etc.)
6. Flexible Fund Assistance, if needed
7. Referrals
8. Enrollments
9. Follow up
10. Orientations provided (Job, Legal, Cultural etc.)

## 3. Participants and Audiences:

Primary: Noncitizens engaged in immigration removal proceedings who are previously enrolled in ICE ATD program.<sup>1</sup>

## 4. Performance indicators

The CMPP will monitor and report on a variety of performance indicators that are Specific, Measurable, Achievable, Relevant and Time-bound (SMART)<sup>2</sup> and relate to those individuals voluntarily enrolled in the CMPP with each subrecipient. The CMPP National Board will aggregate, elaborate, and analyze performance data to determine individual subrecipient and overall programmatic performance. All indicators should allow for disaggregation by key parameters as appropriate, including, dates of arrival/referral/enrollment/assessment, family size, location, country of origin, and, when applicable, gender.

The CMPP National Board will create a central data collection system where each subrecipient will be expected to enter performance data and indicators.

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<sup>1</sup> Those who voluntarily enroll in CMPP will be removed/unenrolled from ICE ATD programs.

<sup>2</sup> **Specific, Measurable, Achievable, Relevant and Time-bound.** The first criterion, **Specific**, means that the indicator needs to be narrow and accurately describe what needs to be measured. **Measurable** means that regardless of who uses the indicator it would be measured in the same way. **Achievable** (or attainable) means that collecting the data should be straightforward and cost-effective. **Relevant** requires that the indicator be closely linked to the relevant outcome. Finally, **Time-bound** means that there should be a timeframe linked to the indicator (such as the frequency with which it is collected or measured).

The subrecipient will be responsible for quarterly reporting on each indicator included in the subaward agreement, as well as for the analysis of progress and/or impediments to reaching CMPP targets. The CMPP National Board, per policy, will assess the quality of data reported by subrecipients as part of the award activities. Therefore, applicants should be aware that subrecipients will be expected to be engaged and collaborate in periodic data quality assessments.

A minimum set of indicators and key disaggregates are proposed below and must be included in submitted proposals. Applicants are encouraged to outline additional SMART indicators that may enhance the understanding of the progress toward the achievement of CMPP goals. The indicators and targets will subsequently flow into a "final" PMP (performance monitoring plan) that the subrecipient will submit to CMPP National Board within 30 days of award, for approval. The applicants must also outline in the submitted proposals how they plan to maintain confidentiality and safety of Personal Identifiable Information (PII) of the participants.

<b>Minimum Indicators</b>
<p><u>Basic Program Performance Metrics</u></p> <ul style="list-style-type: none"> <li>• Number of individuals enrolled in CMPP</li> <li>• Number of CMPP participants who were offered <i>case management services</i>, including the breakdown of how many participants received or declined services</li> <li>• Number of participants who were offered, <i>provided legal orientation and obtained referrals</i>, including whether referrals were to pro-bono or low-bono legal services, including the breakdown of how many participants received services or declined services</li> <li>• Number of CMPP participants who identified each of the following services as a priority, and the number who were: <ul style="list-style-type: none"> <li>- Provided mental health screening;</li> <li>- Provided or referred for mental health services;</li> <li>- Obtained mental health services.</li> <li>- Provided human trafficking screening;</li> <li>- Provided or referred for cultural orientation programming;</li> <li>- Obtained cultural orientation services;</li> <li>- Provided or referred for legal services</li> <li>- Provided departure information, planning and/or reintegration services;</li> <li>- Connected to other participant-identified needed social services such as housing assistance, access to counsel, childcare, transportation, healthcare, schooling, language classes, and orientation</li> </ul> </li> </ul> <p><u>Legal Access Program Performance Metrics:</u></p> <ul style="list-style-type: none"> <li>• Number of CMPP participants without legal counsel at time of CMPP enrollment</li> <li>• Number of CMPP participants that secured legal counsel during the program period.</li> </ul>

- Number of CMPP participants that secured legal counsel due to CMPP program referral
- Length of time to first immigration hearing date
- Length of time to immigration case resolution
- Breakdown and percentage of forms of immigration relief applied for
- Breakdown and percentage of forms of immigration relief granted, such as asylum, CAT, etc.

Compliance/Outcome Measures:

- Number of CMPP participants who attended scheduled Executive Office of Immigration Review (EOIR) immigration court hearings, as applicable (Include breakdown of those with legal representation and those *pro se*)
- Number of CMPP participants identified as victims of human trafficking
- Number of CMPP clients (1) with a final order of removal during the time they are enrolled in CMPP; and (2) who complied with the order

<b>Key disaggregates</b>		
<ul style="list-style-type: none"> <li>• Gender</li> <li>• Family</li> <li>• Country of Origin</li> <li>• Date of Birth</li> <li>• Date of Arrival</li> <li>• Preferred Language</li> </ul>	<ul style="list-style-type: none"> <li>• Date of Referral</li> <li>• Referred by</li> <li>• Date of Enrollment</li> <li>• Date of Assessment</li> <li>• Type of Assessment (Phone, virtual, Face to Face)</li> </ul>	<ul style="list-style-type: none"> <li>• Individual Service Plan</li> <li>• Screenings</li> <li>• Referrals (Number, Sectors, Services etc.)</li> <li>• Enrollments (Number, Sectors, Services etc.)</li> <li>• Legal screening (assessed potential form of relief)</li> <li>• Legal outcome (date, result)</li> </ul>

## 5. Substantial Involvement

CMPP National Board fiduciary agent Church World Service, Inc. will be substantially involved in the oversight, implementation, monitoring and reporting of the program outcomes. Substantial involvement will include the following:

- a. Review of subrecipient's implementation plans;
- b. Award management (Financial and Programmatic)
- c. Development of CMPP Manual
- d. Technical assistance (training, FAQ, guidance, site visits, etc.)
- e. Conducting program monitoring
- f. Defining data requirements and indicators

- g. Conducting data blending<sup>3</sup>
- h. Reporting requirements and oversight
- i. Approval of specified key personnel; Key personnel are defined as those who:
  - i. are 100% FTE on the project and
  - ii. are within a Management, Director, Coordination/ Senior Specialist role within the project scope
- j. Approval of the subrecipient's monitoring and evaluation plans
- k. Approval of any subgrant by the subrecipient (sub-subgrants)
- l. Assurance that substantive provisions and all activities are included in the program description, negotiated in the budget, and made part of the subaward.

Additionally, the CMPP National Board and/or DHS may conduct a program process and or outcome evaluation. Applicant must be aware that they may be required to participate in such program evaluation activities.

## B. FEDERAL AWARD INFORMATION

Overall authority for this project is in Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260. CMPP National Board through its fiduciary agent Church World Service, Inc. will award subawards (cooperative agreements) to applicants whose application best meets the scoring criteria of this solicitation. Depending on the quality of performance and other factors, CMPP National Board and its fiduciary agent may consider additional supplemental funding to continue activities and extend the period of performance, if funds are available. Eligible competitive proposals may be considered for award if additional funds are made available.

### 1. Summary of Award Information

Type of Award:	Subaward, Cooperative Agreement
Fiscal Year Funds	CY 2022
Approximate Total Funding:	\$5 million
Approximate Number of Awards:	2 or more
Maximum individual award amount:	\$2,262,000 per award
Anticipated Award Date:	November 2022
Anticipated Project Completion Date:	August 31, 2024

### Timeline for Award Adjudication

<sup>3</sup> Data blending is a method for combining data from multiple sources

Deadline for Applications:	Oct. 19, 2022
Anticipated Project Start Date:	November 2022

## C. ELIGIBILITY INFORMATION

Eligibility is limited to state and local government and/or US nonprofit/nongovernmental organizations subject to section 501 (c) (3) of the U.S. tax code, educational institutions, and public international organizations.

Eligible submissions are those which: 1) arrive electronically to [info@cmpp.org](mailto:info@cmpp.org) by the designated deadline; 2) have heeded all instructions contained in the solicitation, including registrations and length and completeness of submission; and 3) are in compliance with all of the guidelines stated in the solicitation and this document.

### 1. Cost Sharing or Matching

There is no mandatory level of cost-sharing (matching) for this program.

### 2. Other Eligibility Requirements

In order to be eligible to receive a subaward, the lead organization and all their subrecipients must have a [Unique Entity Identifier](#)<sup>4</sup>. As these funds are obligated to follow 2 CFR § 200.332 - Requirements for pass-through entities. Please see Section D.7 for information on how to obtain these registrations. For consortia applications, it is necessary for all consortium members, who will receive funding, to have a unique entity identifier or be registered in SAM.gov.

## D. APPLICATION AND SUBMISSION INFORMATION

### 1. Address to Submit Application Package

Email: [info@cmpp.org](mailto:info@cmpp.org)

### 2. Content and Form of Application Submission

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<sup>4</sup> <https://www.gsa.gov/about-us/organization/federal-acquisition-service/office-of-systems-management/integrated-award-environment-iae/iae-systems-information-kit/unique-entity-identifier-update>

Please follow all instructions below carefully. Proposals that do not meet the requirements of this announcement or fail to comply with the stated requirements will be ineligible.

### **3. Content of Application**

- a. The proposal clearly addresses the goals and objectives of this funding opportunity
- b. All documents are in English
- c. All budgets are in U.S. dollars
- d. All pages are numbered
- e. All documents are formatted to 8 1/2 x 11 paper,
- f. All Microsoft Word documents are single-spaced,
- g. 12 point Times New Roman font,
- h. 1-inch margins (all the way around)

The following are **required** documents:

### **4. Proposal**

- **Project Abstract (2 pages maximum):** Cover sheet stating the applicant's name and organization, consortium members and partner organizations, proposal date, program title, program period proposed start and end date, and brief purpose of the program. Short narrative that outlines the proposed program, including program objectives and anticipated impact.
- **Project Proposal (20 pages maximum):** The proposal should contain sufficient information that anyone not familiar with it would understand exactly what the applicant wants to do. You may use your own proposal format, but it must include all the items below.
  1. **Introduction to the Organization (Consortium) members:** A description of lead organization, consortium members' and subrecipients roles and responsibilities; past and present operations, showing ability to carry out the program, including information on all present grants from any U.S. government agencies.
  2. **Problem Statement:** Clear, concise, and well-supported statement of the problem to be addressed and why the proposed program is needed.
  3. **Program Goals and Objectives:** The "goals" describe what the program intends to achieve. The "objectives" refer to the intermediate accomplishments on the way to the goals. These should be achievable and measurable.
  4. **Program Activities:** Describe the program activities (minimum set of activities described above) and how they will help achieve the objectives.
  5. **Program Methods and Design:** A description of how the program is expected to work to solve the stated problem and achieve the goals and objectives. Include a logic model with clear outcomes identified.

6. **Program Data Collection and Compliance:** A description of existing case management tools and means to ensure and comply with HIPAA and any U.S. Government privacy laws regulations, and policies upon request. Including a plan to maintain confidentiality and safety of Personal Identifiable Information (PII) of the participants.
7. **Proposed Program Schedule and Timeline:** The proposed timeline for the program activities. Include the dates, times, and locations of planned activities and events.
8. **Key Personnel:** Names, titles, roles, and experience/qualifications of key personnel involved in the program. What proportion of their time will be used in support of this program?
9. **Program Consortium Partners:** List the names and type of involvement of key partner organizations and sub-awardees, and letters of support, if available.
10. **Program's Accountability to Affected Populations (AAP):** Applicants will need to describe how they plan to ensure AAP.
11. **Program safeguards against discrimination:** Applicants will need to describe how they will ensure program services are provided within a gender equity lens and how they ensure participants are equally provided access to services due to their gender, language competence, disability, age, religion.
12. **Sustainability:** Applicant can share plan for continuing the program beyond the grant period, if applicable.

- **Summary Budget in USD (2 pages),** in Excel, printable on 8 ½ x 11 letter-sized paper, using the format in the provided Excel Budget Template;
- **Detailed Budget in USD,** in Excel, for primary applicant and each sub-recipient listed in “Contractual” within a printable on letter-sized paper, using the format in the provided Excel Budget Template;
  1. **Budget Components:** After filling out the Excel Budget, use a separate sheet of paper to describe each of the budget expense categories in detail.
  2. All sub-recipient costs should be listed under “Contractual,” and should also be broken out and organized according to the same subcategories in the main budget.
  3. Individual contractors should also be listed under “Contractual”, and each should be listed separately from applicant’s line items.
  4. The budget should be for the entire project period. Successful applicants may be asked to provide a year-by-year budget after the award is signed;
- **Budget Narrative (5 page max)** that includes an explanation for each line item in the spreadsheet, as well as the source and description of all cost share offered. See section *H. Other Information: Guidelines for Budget Submissions* below for further information.

## 5. **Attachments (do not count towards page limit):**

- a. 1-page CV or resume of key personnel who are proposed for the program. Key personnel are defined as those who:

1. are over 50% to 100% FTE on the project and
2. are within a Management, Director, Coordination/ Senior Specialist role within the project scope.

- b. Letters of support from organizations or program partners describing the roles and responsibilities of each partner
- c. Organizational Chart for prime applicant (only)
- d. The prime applicant has a Federally approved NICRA and includes NICRA charges in the budget, the latest NICRA should be included as a PDF file.

## **6. Mandatory Attachment Forms (do not count towards page limit):**

- a. **Completed and signed SF-424**, The Certifications and Assurances that your organization is agreeing to in signing the 424 are available at <https://www.grants.gov/web/grants/forms/sf-424-mandatory-family.html>.
- b. **Disclosure of Lobbying Activities** if your organization engages in lobbying activities, a (SF-LLL) form is required;  
<https://apply07.grants.gov/apply/forms/sample/SFLLL-V1.1.pdf>
- c. **Letter of Disclosure** for proposed consultants/personnel (if applicable) of potential conflicts of interest, employment with a local/state/federal government.

## **7. Unique Entity Identifier and System for Award Management (SAM.gov)**

Each applicant and their subrecipients are excepted to follow all requirements under 2 CFR 200 (d)) is required to: (i) Be registered in SAM before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has this award or an application or plan under consideration by CMPP National Board. The CMPP National Board may not make an award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the CMPP National Board is ready to make an award, the CMPP National Board may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant.

In addition, if the organization plans to sub-contract or sub-grant any of the funds under an award, those sub-awardees must also have a unique entity identifier (UEI) number.

All organizations applying for an award must obtain these registrations. All are free of charge at [www.SAM.gov](http://www.SAM.gov) registration

## **8. Submission Dates and Times**

Applicants are urged to submit before the stated deadline. All applications must be submitted by 11:59 PM Eastern Standard Time (EST) on October 19, 2022. Applications received after the deadline will not be considered.

## **9. Funding Restrictions**

Funding cannot be used for direct legal representation of enrolled of CMPP participants in this project.

## **10. Other Submission Requirements**

CWS requires proposals must be submitted electronically through [info@CMPP.org](mailto:info@CMPP.org).

## **E. APPLICATION REVIEW INFORMATION**

### **1. Criteria**

Each application will be evaluated and rated based on the criteria outlined below.

- The variety of participating nonprofit organizations and/or community-based and/or government consortia entities that apply together;
- There is a lead local government or nonprofit organization;
- The defined project is focused on a targeted community with high rates of asylum seekers within continental U.S. with demonstrated need within their community.
- Applicant has demonstrated capacity to provide voluntary and trauma informed <sup>5</sup>case management services to immigrants, victims of trafficking, refugees, and/or asylum seekers, especially women and girls and other vulnerable migrants and including services for people with limited English proficiency and people with disabilities;
- Applicant has the capability to leverage community resources for program beneficiaries, meet their self-identified needs, and collect and report data related to case management services;
- Applicant has the capacity, either internally or through partnerships with other community-based organizations, to provide case management services, including but not limited to: mental health screening; trafficking screening; legal orientation; and cultural orientation programs;

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<sup>5</sup> Trauma-Informed Care (TIC) is an approach in the human service field that assumes that an individual is more likely than not to have a history of trauma. Trauma-Informed Care recognizes the presence of trauma symptoms and acknowledges the role trauma may play in an individual's life- including service staff.

- Applicant has the capacity, either internally or through partnerships with other community-based organizations, to provide or connect participants to the following services:
  1. health screening and medical services
  2. referral to legal service providers
  3. family wellness (parenting, MHPSS, etc.)
  4. job training
  5. school enrollment support;

with the minimum activities including but not limited to:

1. Intake
2. Individual assessment
3. Individual service planning
4. Individual goal setting
5. Screenings (mental health, trafficking, legal etc.)
6. Flexible Fund Assistance (optional)
7. Referrals
8. Enrollments
9. Follow up
10. Orientations provided (Job, Legal, Cultural etc.)

- Applicant has the capacity, either internally or through a partnership with other community-based, national, or international organizations, to provide departure planning;
- Applicant has the capacity, either internally or through a partnership with other community-based, national, or international organizations to provide information about or referral to existing reintegration services to non-U.S. citizens returning to their countries of origin;
- Applicant has extensive experience with federal grant awards; and robust financial controls to ensure clear accurate and timely reporting and if applicable the capacity to provide direct assistance.

## 2. Scoring

**Quality and Feasibility of the Program Idea – 25 points:** The program idea is well developed, with detail about how program activities will be carried out. The program meets the criteria on providing services within a targeted area as defined in the criteria. The proposal includes a reasonable implementation timeline.

**Organizational Capacity and Record on Previous Grants – 25 points:** The organization has expertise in its stated field and has the internal controls in place to manage federal funds. This includes a financial management system and a bank account.

- Provide a description of the organization including its general purpose, goals, annual budget (including funding sources), and major current activities and projects undertaken.
- Discuss the applicant organization's experience in providing individualized, client centered, trauma informed case management services to refugee, immigrants and asylum seekers and refugees.
- Discuss the roles and responsibilities of the project implementation team (prime applicant and key partners/sub-recipients/consultants).

**Program Planning/Ability to Achieve Objectives – 15 points:** Goals and objectives are clearly stated, and program approach is likely to provide maximum impact in achieving the proposed results. The proposal should further outline the expected and achievable results for the project, which could include suggestions in **Section A**.

It should also outline the relevant and appropriate main activities to accomplish the goals and expected results. Explain the assumptions on which the success of the project depends, and the involvement of other stakeholders.

**Budget – 10 points:** The budget justification is detailed. Costs are reasonable in relation to the proposed activities and anticipated results. The budget is realistic, accounting for all necessary expenses to achieve proposed activities. Proposals should keep estimated overhead and administrative costs within proportion of proposed expenditures that are reasonable, allowable, and allocable to the proposed project activities and reflect the applicant's understanding of the allowable cost principles established by Office of Management and Budget (OMB) in 2 CFR 200.

**Monitoring and evaluation plan – 15 points:** Applicant demonstrates it is able to measure program success against key outputs and provides milestones to indicate progress toward goals outlined in the proposal. Proposals should discuss how progress towards the expected results will be measured and identify which performance outcomes will be measured and how data on these indicators will be collected, analyzed, and used for program management. Applicant should set associated targets for the data outcomes to be collected and indicators that it proposes to achieve. Include an explanation of how data and information will be collected, analyzed, and used, and how baseline measurements will be established.

**Accountability to Affected Populations, Gender Equity and Sustainability – 10 points:** Provide an outline of how program activities will meet accountability to affected populations, and gender equity. Furthermore, articulate how or if sustainability could or may continue to have a positive impact after the end of the program.

### **3. Review and Selection Process**

A CMPP National Board will evaluate all nation-wide eligible applications. Subsequently the CMPP National Board via CMPP fiduciary agent Church World Service, Inc. will provide subawards. The CMPP National Board reserves the right to reduce, revise, or increase proposal budgets in accordance with the program needs and availability of funds.

## **F. AWARD ADMINISTRATION INFORMATION**

### **1. Award Notices**

The award will be written, signed, awarded, and administered by Church World Service, Inc. The subaward agreement is the authorizing document, and it will be provided to the recipient for review. The recipient may only start incurring program expenses beginning on the start date shown on the subaward agreement document signed by Church World Service.

Issuance of this solicitation does not constitute an award commitment on the part of the CMPP National Board via Church World Service, Inc., nor does it commit CMPP National Board or Church World Service to pay for costs incurred in the preparation and submission of these proposals. Further, the CMPP National Board and Church World Service reserve the right to reject any or all proposals received.

### **2. Payment Method**

The subawardee will be paid on a cost reimbursable basis through a Cost Reimbursement invoice. These invoices will be processed and provided by Church World Service, Inc. to subawardee for expenses and stipulated within the subaward.

### **4. Administrative and National Policy Requirements**

**Terms and Conditions:** Before submitting an application, applicants should review all the terms and conditions and required certifications that will apply to this award, to ensure that they will be able to comply. These include: 2 CFR 200, 2 CFR 600, Certifications and Assurances, and the FEMA <https://www.fema.gov/fact-sheet/fiscal-year-2022-fema-standard-terms-and-conditions>.

### **5. Reporting**

**Reporting Requirements:** Subawards will provide detailed requirements as they pertain to financial reports, program narrative reports and data collection requirements. The award document will specify how often these reports must be submitted.

Applicants should be aware of the post-award reporting requirements reflected in 2 CFR 200 Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters.

**Progress Reports:** The subaward(s) will provide CMPP National Board via Church World Service with regular programmatic narrative reports, which include synthesis of performance analysis that describes activities undertaken, progress toward goals, objectives and target;

compliance with the anticipated work plan, challenges and responses taken or recommended responses, and proposed next steps. The subaward may propose additional strategies for achieving results, developing communications, and disseminating lessons learned as necessary to account for the specific goals of the sub-award. Regular reports will additionally include a summary of all reported expenditures as stated, in the format provided. Programmatic narrative reports will be submitted to CMPP National Board via Church World Service within a timeframe to be stipulated within the sub-award and that set forth:

- Significant activities achieved in the period
  - how activities reflect progress toward achieving goals;
- Evaluation of progress towards goals/targets/objectives with quantitative and qualitative data, as appropriate;
- Identified problems/challenges in implementing the project and its correlated corrective action plan taken;
- An update on expenditures during the reporting period;
- Supporting documentation or products related to project activities (such as presentation, trainings, self-surveys, travel, critical engagements etc.); and
- Project Spotlight an item that significantly highlights the program impact such as a significant story, program impact, individual outcomes, or success as well as photos of implementation.

**Financial Reports:** The subaward is required to submit financial reimbursement reports throughout the project period, using the provided request for reimbursement, as part of the sub-award agreement.

**Final Report:** The final report will be due no later than 90 days after completion or termination of all project activities. The Final Report shall include the following elements: executive summary, successes, outcomes, best practices, how the project will be sustained, and a final financial report. A template will be provided by CMPP National Board via CWS near the completion date of project.

## **G. AWARDING AGENCY CONTACTS**

If you have any questions about the grant application process, please contact: [info@CMPP.org](mailto:info@CMPP.org).

## **H. OTHER INFORMATION**

### **1. Conflict of Interest**

In accordance with applicable Federal awarding policy, applicants must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity.

## 2. Illicit Financing

All recipients must comply with E.O. 13224 and all U.S. laws that prohibit transactions with, and the provision of resources and support to individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the order and laws.

When vetting information is requested by CMPP National Board via Church World Service, Inc., information may be submitted on via email to [info@CMPP.org](mailto:info@CMPP.org), or hardcopy to the CMPP National Board/Church World Service 475 Riverside Dr. #700 New York, NY 10115.

## 3. Guidelines for Budget Justification

Personnel and Fringe Benefits: Describe the wages, salaries, and benefits of temporary or permanent staff who will be working directly for the applicant on the program, and the percentage of their time that will be spent on the program.

Travel: Per U.S. federal travel regulations, estimate the costs of economy fare, refundable travel and per diem for this program, for program staff, consultants or speakers, and participants/beneficiaries. If the program involves international travel, include a brief statement of justification for that travel.

Equipment: Describe any machinery, furniture, or other personal property that is required for the program, which has a useful life of more than one year (or a life longer than the duration of the program), and costs at least \$5,000 per unit.

Supplies: List and describe all the items and materials, including any computer devices, that are needed for the program. If an item costs more than \$5,000 per unit, then put it in the budget under Equipment.

Contractual: Describe any goods and services that the applicant plans to acquire through a contract with a vendor. Also describe any sub-awards to non-profit consortium partners that will help carry out the program activities.

Other Direct Costs: Describe other costs directly associated with the program, which do not fit in the other categories. For example, shipping costs for materials and equipment or applicable taxes. All “Other” or “Miscellaneous” expenses must be itemized and explained. If the sub-awardee intends to provide flexible funds, this must be included.

Indirect Costs: These are costs that cannot be linked directly to the program activities, such as overhead costs needed to help keep the organization operating. If your organization has a Negotiated Indirect Cost Rate (NICRA) and includes NICRA charges in the budget, attach a copy of your latest NICRA. Organizations that have never had a NICRA may request indirect costs of 10% of the modified total direct costs as defined in 2 CFR 200.68.

“Cost Sharing” refers to contributions from the organization or other entities other than the U.S. Embassy. It also includes in-kind contributions such as volunteers’ time and donated venues.

# Exhibit B



November 30, 2022

BakerRipley  
[slagrasse@BakerRipley.org](mailto:slagrasse@BakerRipley.org)  
[jcampbell@BakerRipley.org](mailto:jcampbell@BakerRipley.org)  
[crodriguez@BakerRipley.org](mailto:crodriguez@BakerRipley.org)

Dear Ms. LaGrasse, Ms. Campbell, and Ms. Rodriguez,

Thank you for your response to the Case Management Pilot Program (CMPP) National Board's Subrecipient Solicitation. This letter is to inform you that your organization, BakerRipley, has been selected as a Subrecipient of the National Board to provide CMPP case management and other services to eligible migrants in Houston, Texas.

Please confirm your organization's interest to serve as a CMPP National Board Subrecipient and provide the name and contact information for your organization's primary point of contact for CMPP matters.

The National Board will be reaching out to you shortly to set up an initial meeting/information briefing about the CMPP and to discuss your work plan. If you have any immediate questions, please contact [info@cmpp.org](mailto:info@cmpp.org).

On behalf of the CMPP National Board, we look forward to working with your organization to lead this critical effort to provide case management and other services to the migrant community.

Best Regards,



Peter Mina,  
CMPP National Board Chair  
Senior Official Performing the Duties of  
Officer for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security

# Exhibit C



November 30, 2022

International Rescue Committee, Inc.

[Katherine.Hoven@rescue.org](mailto:Katherine.Hoven@rescue.org)

[Avigail.Ziv@rescue.org](mailto:Avigail.Ziv@rescue.org)

[Daniel.Bloch@rescue.org](mailto:Daniel.Bloch@rescue.org)

Dear Ms. Hoven, Ms. Ziv, and Mr. Bloch,

Thank you for your response to the Case Management Pilot Program (CMPP) National Board's Subrecipient Solicitation. This letter is to inform you that your organization, International Rescue Committee, Inc., has been selected as a Subrecipient of the National Board to provide CMPP case management and other services to eligible migrants in New York, New York.

Please confirm your organization's interest to serve as a CMPP National Board Subrecipient and provide the name and contact information for your organization's primary point of contact for CMPP matters.

The National Board will be reaching out to you shortly to set up an initial meeting/information briefing about the CMPP and to discuss your work plan. If you have any immediate questions, please contact [info@cmpp.org](mailto:info@cmpp.org).

On behalf of the CMPP National Board, we look forward to working with your organization to lead this critical effort to provide case management and other services to the migrant community.

Best Regards,



Peter Mina,  
CMPP National Board Chair  
Senior Official Performing the Duties of  
Officer for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

STATE OF TEXAS,

Plaintiff,

v.

**MERRICK GARLAND**, in his official capacity as  
Attorney General, *et al.*,

Defendants.

Case No. 5:23-cv-00034-H

**DECLARATION OF KELLY KINNEEN**

I, Kelly Kinneen, make the following declaration based upon my personal knowledge, upon information provided in my official capacity, and upon conclusions I reached based on that knowledge or information:

1. I am the Assistant Director for Budget of the Office of Management and Budget (OMB) in the Executive Office of the President (EOP), in Washington, D.C. I have served in this position since 2017, and have worked at OMB since 2006.
2. I am the senior-most career official responsible for supporting the OMB Director in developing all aspects of the President's Budget. Additionally, I advise OMB leadership and Federal agencies on questions relating to implementing laws that provide funding to the Federal government, including annual appropriations acts.
3. I have been asked to summarize the Consolidated Appropriations Act, 2023, Public Law 117-328 (the "Act" or the "2023 Act"), to describe the process by which funds appropriated under the Act are obligated and expended by Federal agencies, and to explain how a ruling enjoining the entire Act would present unprecedented challenges and disruptions. *See generally* Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459 (2022) ("2023 Appropriations Act").

Summary of the Consolidated Appropriations Act, 2023

4. Congress passed the Act on December 23, 2022, and the President signed it into law on December 29, 2022. The Act is commonly known as an “omnibus” appropriations bill, because it includes all twelve of the regular annual appropriations bills (included as divisions A through L) that largely fund the operations of the three branches of the Federal government. The twelve regular annual appropriations bills included in the Act are:

- a. Division A—Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2023: This division, among other things, provides funding for the Department of Agriculture, including programs for farm production and conservation, and rural development. It also funds food and nutrition programs for socioeconomically disadvantaged populations, including the National School Lunch and School Breakfast programs, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and the Supplemental Nutrition Assistance Program (SNAP). This division also funds the Food and Drug Administration.
- b. Division B—Commerce, Justice, Science, and Related Agencies Appropriations Act, 2023: This division, among other things, provides funding for the Department of Commerce, including the National Oceanic and Atmospheric Administration; and the Department of Justice, including the Bureau of Prisons, Federal Bureau of Investigation, and Drug Enforcement Administration. This division also funds the Equal Employment Opportunity Commission, National Aeronautics and Space Administration, and the National Science Foundation.
- c. Division C—Department of Defense Appropriations Act, 2023: This division, among other things, provides funding for the Department of Defense, except for

military construction and the U.S. Army Corps of Engineers. This division includes funding for the pay of military personnel, operation and maintenance costs, and major procurements, including submarines, such as the Columbia Class Submarine, aircraft, and weapons systems.

d. Division D—Energy and Water Development and Related Agencies

Appropriations Act, 2023: This division, among other things, provides funding for the Department of Energy, National Nuclear Security Administration, Bureau of Reclamation, and the U.S. Army Corps of Engineers. This division includes funding for nuclear energy programs, the Strategic Petroleum Reserve, and nuclear weapons activities and non-proliferation.

e. Division E—Financial Services and General Government Appropriations Act,

2023: This division, among other things, provides funding for the Department of the Treasury, Executive Office of the President, the Judicial Branch, the District of Columbia, General Services Administration, Small Business Administration, and independent agencies such as the Federal Election Commission, Consumer Product Safety Commission, and Federal Trade Commission.

f. Division F—Department of Homeland Security Appropriations Act, 2023: This

division, among other things, provides funding for the Department of Homeland Security, including U.S. Customs and Border Protection, Immigration and Customs Enforcement, the Federal Emergency Management Agency, the Transportation Security Administration, and the Coast Guard.

g. Division G—Department of the Interior, Environment, and Related Agencies

Appropriations Act, 2023: This division, among other things, provides funding for the Department of the Interior (including the Bureau of Indian Affairs, Bureau of

Indian Education, and the Indian Health Service), Environmental Protection Agency, and the Forest Service.

- h. Division H—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2023: This division, among other things, provides funding for the Departments of Labor, Health and Human Services, and Education. This division includes funding for the Employment and Training Administration, Centers for Disease Control and Prevention, Centers for Medicare and Medicaid Services, National Institutes of Health, Substance Abuse and Mental Health Services Administration, Administration for Children and Families, Advanced Research Projects Agency for Health, and Office of Federal Student Aid.
- i. Division I—Legislative Branch Appropriations Act, 2023: This division provides funding for the Legislative Branch.
- j. Division J—Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2023: This division, among other things, provides funding for the Department of Veterans Affairs and the military construction program of the Department of Defense.
- k. Division K—Department of State, Foreign Operations, and Related Programs Appropriations Act, 2023: This division, among other things, provides funding for the Department of State, United States Agency for International Development, and United States International Development Finance Corporation. This division includes funding for diplomacy abroad, contributions to international organizations, and economic assistance and military financing to foreign countries and other international partners.

1. Division L—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2023: This division, among other things, provides funding for the Departments of Transportation and Housing and Urban Development. This division includes liquidating authority for the Department of Transportation's airports, highways, and transit programs, and funding for highway infrastructure projects and the Federal Aviation Administration. This division also includes funding for tenant-based and project-based rental assistance programs, homeless assistance, and other housing programs.
5. In addition to the 12 annual appropriations bills, the 2023 Act also includes two supplemental appropriations bills focused on the conflict in Ukraine, including for the procurement of missiles and ammunition, and disaster relief (Divisions M and N), respectively.
6. As is typical with an annual omnibus bill, the Act also includes discrete acts making changes to permanent law, most of which are unrelated to the discretionary appropriations included in the Act. These divisions in the 2023 Act include, among other things, bipartisan revisions to the Electoral Count Act relevant to Presidential elections (Division P); legislation to provide protections to pregnant workers and nursing mothers (Divisions II and KK); healthcare measures, including an extension of the requirement that Medicare cover telemedicine and protections against future pandemics (Division FF); an act to provide countermeasures against ransomware and other cyber-related attacks by foreign actors (Division BB, Title V); and the Fairness for 9/11 Families Act (Division MM).
7. Annual appropriations included in the Act provide funding and authority for certain agency operations in Fiscal year (FY) 2023, which began on October 1, 2022, and runs through

September 30, 2023. The authorities and funding included in the Act cover the entire fiscal year.

The Process of Obligating and Expenditure Appropriated Funds

8. Upon the enactment of appropriations bills such as the 2023 Act, there is a multi-step process by which Federal agencies obligate and expend appropriated funds.
9. The 2023 Act provided “budget authority” to the various departments, agencies, and instrumentalities of the Federal government. OMB Circular A-11, *Preparation, Submission, and Execution of the Budget*, § 20.3 (Aug. 2022) (“OMB Circular A-11”), available at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>, defines “budget authority” as “the authority provided by law to incur financial obligations that will result in outlays.”
10. According to the FY 2024 President’s Budget estimates, the total amount of budget authority enacted in the 2023 Act is \$1.7 trillion in discretionary appropriations and \$1.31 trillion in mandatory appropriations, for a total of approximately \$3 trillion. See Office of Mgmt. & Budget, Budget of the U.S. Government, Fiscal Year 2024 at p. 170, available at [https://www.whitehouse.gov/wp-content/uploads/2023/03/budget\\_fy2024.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/03/budget_fy2024.pdf).
11. After Congress enacts legislation that provides budget authority, pursuant to 31 U.S.C. §§ 1512-13, the President must “apportion” the budget authority to the relevant Federal agencies before each agency may obligate its funds. The President has delegated this apportionment authority to the OMB Director. OMB apportions funds to Executive Branch agencies by time periods, specific activities or projects, or a combination thereof. 31 U.S.C. § 1512(b)(1); OMB Circular A-11 § 120.1.
12. As of December 29, 2022, OMB had apportioned all of the funds provided in the 2023 Act. See OMB Circular A-11, § 120.41.

13. Once funds are apportioned, agencies may “obligate” the funds. The Government Accountability Office (GAO) defines an obligation as “[a] definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States.” U.S. Gov’t Accountability Office, A Glossary of Terms Used in the Federal Budget Process, GAO-05-734SP, at 70 (2005), *available at* <https://www.gao.gov/assets/gao-05-734sp.pdf>. An agency enters an obligation where, for example, it places an order, signs a contract, awards a grant, purchases a service, or takes other actions that require the government to make payments to the public or from one government account to another. OMB Circular A-11 § 20.5(a).
14. Agencies must “record” obligations when they occur. 31 U.S.C. § 1501; OMB Circular A-11 § 20.5.
15. An “expenditure” or “outlay” occurs when an agency makes a payment to liquidate an obligation. OMB Circular A-11 § 20.6.
16. Through May 1, 2023, Executive Branch agencies had seven months of the current fiscal year to incur thousands of obligations made available by the 2023 Act, which include legal commitments to third parties through Federal contracts, grants, and loans (including loan guarantees), as well as the salaries of Federal employees and military personnel.
17. To date, OMB estimates that the Executive Branch has obligated and expended billions of dollars of the funds provided in the 2023 Act.

Lapses in Appropriations

18. The vast majority of the funding provided by the annual appropriations bills is time-limited. This means that, after a certain amount of time, the funding ceases to be available to

agencies to make new obligations. In most cases, the time-limit for obligating funds is one fiscal year, but there are some appropriations that are available for obligation for more than one fiscal year or have no time limit. When the time limit for obligations has been reached, the funding is colloquially said to have “lapsed.”

19. There have been several instances in which funding for government programs lapsed and Congress failed to pass new appropriations bills to provide funding for programs to operate. This is commonly referred to as a “government shutdown.”
20. Government shutdowns are highly disruptive to government programs. In the absence of appropriations, Federal agencies may not legally incur new obligations except in narrow circumstances. Agency personnel also generally may not support the continued performance of a contract or grant that has already been awarded, unless the contract or grant itself meets one of the narrow exceptions for continuation during a government shutdown.
21. During a government shutdown, hundreds of thousands of Federal employees are placed on furlough. Pursuant to 31 U.S.C. § 1341(c), Federal employees will receive retroactive pay after the lapse ends. When salaries and expenses for Federal employees are paid for out of annual appropriations, however, Federal employees receive no compensation during the period of the government shutdown, including the limited subset of employees who are legally permitted to work during the shutdown.
22. OMB and agencies prepare for the contingency that there might be a government shutdown whenever the end of a funding period nears, including by communicating with the Federal workforce, contractors, unions, and other stakeholders regarding the actions that they will and will not be permitted to take in the event of a lapse in appropriations. OMB Circular A-11 § 124.

Impact of an Injunction Against the 2023 Act

23. An injunction precluding enforcement of the entire 2023 Act would present unprecedented challenges and complications. It would result in an immediate lapse of all FY 2023 appropriations in the Act. With limited exceptions, Federal agency operations would be forced to shut down absent immediate Congressional action. To my knowledge, it would be the first ever lapse in appropriations part-way through the implementation of an appropriations act that provided funding for the entire fiscal year. All other lapses of which I am aware have occurred at the beginning of the fiscal year, or after expiration of a continuing resolution that provided funding for part of the fiscal year.
24. In the event of an injunction against the entire 2023 Act, agencies would generally have to cease performance and payments on the thousands of obligations that agencies have already entered into in reliance on the budget authority provided in the 2023 Act.
25. Various entities likely have taken significant actions in reliance on the 2023 Act. For instance:
  - a. Private Sector: A wide range of private sector actors likely have already taken actions in reliance on the funding in the 2023 Act, including contractors and grantees who have arranged their operations based on Federal obligations received, as well as small businesses and lenders that are relying or are expecting to rely on loan guarantees from the Small Business Administration or other government agencies.
  - b. State, local, and tribal governments: State, local, and tribal governments often use Federal funds to support authorized activities, including law enforcement, State-operated food inspections, and nutrition assistance for women and children. Many of these government entities may have already structured their budgets, operations,

and projects based on the Federal funds that they anticipate receiving under the 2023 Act.

- c. Foreign governments: My colleagues at OMB have informed me that foreign nations likely also have taken actions in reliance on foreign assistance appropriated in the 2023 Act. Foreign aid included in the Act includes assistance to Israel, Jordan, and Ukraine, among others, as well as to Central American nations to address the factors that contribute to irregular migrations to the United States. *See, e.g.*, 2023 Appropriations Act, div. K, tit. VII, §§ 7041(d)-(e) (assistance to Israel and Jordan), 7045(a) (assistance for activities in various Central American countries); div. M, tit. VII, “Bilateral Economic Assistance—Economic Support Fund” (assistance for Ukraine).
- d. Federal entities: Federal entities across all three branches of government have relied on funding from the 2023 Act in making personnel decisions. Executive Branch agencies have set their budgets and hired additional employees in reliance on the funding provided under the 2023 Act.

26. Adding to the challenge of an injunction against the entire 2023 Act would be that many of the Federal employees who would be responsible for sorting through the unprecedented issues surrounding existing obligations and expenditures would be furloughed for the duration of the lapse.

27. The 2023 Act includes appropriations for grants for which Texas-based entities will receive funding. The “Aid to State and Local Governments” chapter from the *Analytical Perspectives* volume of the 2024 President’s Budget provides estimates of the amounts each State is expected to receive in discretionary grant funding in FY 2023. The table below includes a subset of the funding that Texas is expected to receive. *See* Office of Mgmt. & Budget,

Budget of the U.S. Government, Fiscal Year 2024: Analytical Perspectives, ch. 8, “Aid to State and Local Governments” tbls. 8-7, 8-13, 8-21, 8-24, 8-31, 8-32, 8-39, *available at* <https://www.whitehouse.gov/omb/budget/>.<sup>1</sup> All of these grants would be suspended if the entire 2023 Act were enjoined:

Federal Agency	Program	Estimated FY 2023 obligations from new authority	Relevant Provisions of the 2023 Act
Education	Title I Grants to Local Educational Agencies	1,813,528,000	Division H, Title III
HHS	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)	401,311,000	Division A, Title IV
HHS	Child Care Development Block Grant	869,050,000	Division H, Title II
HHS	Head Start	798,259,000	Division H, Title II
DHS	FEMA Preparedness Grants	64,388 ,000	Division F, Title III
HUD	Community Development Block Grant	124,502,000	Division L, Title II
DOT	Airport Infrastructure Grants	145,033,000	Division L, Title I

28. My colleagues at OMB have also informed me that Texas state and local law enforcement agencies will likely receive grants totaling hundreds of millions of dollars from the Department of Justice through funding provided in the 2023 Act. In FY 2022, the Department of Justice provided more than \$315 million in grants to state and local agencies or other entities in Texas, and the 2023 Act enacts even higher levels for Department of

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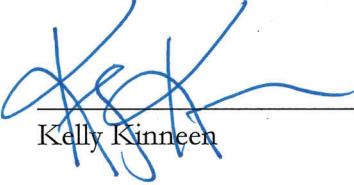
<sup>1</sup> 31 U.S.C. § 1105(a)(7) requires the President’s Budget to include estimated appropriations and expenditures of the Government for the current year. OMB instructed agencies to include the FY 2023 enacted appropriations in the current year estimates in the FY 2024 Budget.

Justice grants. *See* 2023 Appropriations Act, div. B, tit. II, “State and Local Law Enforcement Activities.”

29. In addition, my colleagues have informed me that the Johnson Space Center in Houston, Texas, will likely receive billions of dollars in funding through the 2023 Act. For FY 2023, NASA expects the Johnson Space Center to receive approximately \$6 billion.
30. The above provides just a small number of examples of the impacts that would result if the entire 2023 Act were enjoined.

#### CONCLUSION

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Washington, D.C., on the 4th day of May, 2023.



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Kelly Kinneen

**CERTIFICATE OF SERVICE**

I hereby certify that on May 4, 2023, I electronically filed the foregoing paper with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

*/s/ Courtney D. Enlow*  
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